

The benefits and costs of regulations, individually and in the aggregate, are notoriously hard to measure. In an attempt to measure the size and scope of regulation, the Office of Management and Budget (OMB) each year submits to Congress an accounting statement and associated report providing estimates of the total annual benefits and costs of federal regulations. According to a new [GW Regulatory Studies Center comment](#) submitted to OMB, OMB's Draft 2013 [Report to Congress on the Benefits and Costs of Federal Regulations](#) (the Report) probably offers one of the most comprehensive estimates available on the expected benefits and net benefits (benefits minus costs) of federal regulation; but, as OMB acknowledges, it has limitations.

The benefits reported both for fiscal year 2012 and over the last decade are dominated by EPA regulations that reduce fine particles (PM<sub>2.5</sub>) either directly or incidentally. OMB provides a good qualitative presentation of the many uncertainties surrounding the PM<sub>2.5</sub> benefits, but it should go further. It should reveal to the public the effect of these uncertainties on the range of plausible benefits derived from regulations.

EPA's Mercury and Air Toxics rule contributes more than half of the total benefits OMB reports for 2012. Given that large contribution, OMB should inform the public that the large benefits it presents in the Report are *not* due to reductions in mercury and air toxics, but rather to PM<sub>2.5</sub>, and subject to all the caveats it presents about the uncertainties in modeled benefits. OMB should also continue working with EPA and other agencies to reduce these large uncertainties, particularly with respect to the causal nature of PM<sub>2.5</sub> benefits.

Another large component of FY 2012's net benefits reflects "private benefits." OMB provides no explanation why consumers and profit motivated private companies would need government mandates to maximize net benefits that accrue to them privately. In reporting agencies' estimates, OMB should consider listing private benefits separately, the way it does transfer costs, to distinguish them from outcomes that require collective action to achieve. OMB should also challenge agencies' estimates of such private benefits when reviewing individual rules, as required by both governing executive orders and Circular A-4.

OMB presents estimates of trends in benefits and costs in several sections of the Report. While this is an important element of the Report, OMB should reconsider whether it is appropriate to make comparisons with selected years of previous administrations. Previous reports eschewed such political comparisons, which diminish the value of the report as an objective source of neutral information.



OMB should also take greater care to be consistent in its estimates of regulatory impacts across years. At a minimum, that would call for consistent treatment of vacated rules, and of models for measuring and valuing the same regulatory outcomes (such as PM<sub>2.5</sub>). OMB might also consider using different approaches for presenting data on regulatory trends than it does when summing totals.

To make more transparent agencies' compliance with key elements of regulatory executive orders, OMB should provide in its annual reports an assessment of how well agencies met established executive requirements for each of the major rules examined. OMB could use the Checklist it provided agencies in 2010 as a template for this annual reporting. Not only would such an assessment provide useful information, but it would provide additional incentives for agencies to meet the established requirements in their ex ante analysis.

In its efforts to successfully implement Executive Order 13563 and its implementing guidance, OMB should encourage agencies to include plans for retrospective review of their regulations in new rules as they are written to ensure improved regulatory outcomes. This information will tell both the agency and the public how accurate the agency's estimates were, and will provide information for future rulemakings on how best to evaluate the effects of such standards.

The GW Regulatory Studies Center's comments filed with OMB provide more background on each of these recommendations and are available [here](#).

