



FEDERAL REGULATORY & HOUSING POLICY AREA

DAVID A. CROWE

Senior Staff Vice President

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BY ELECTRONIC MAIL

Lorraine Hunt
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10202
725 17th Street, NW
Washington, DC 20503
Electronic Address: OIRA_BC_RPT@omb.eop.gov

Re: Comments on OMB's *Draft 2005 Report to Congress on the Costs and Benefits of Federal Regulations*

Dear Ms. Hunt,

The National Association of Home Builders (NAHB) would like to express its support for performing post-regulation validation analysis of *ex ante* estimates of the costs of regulations, and NAHB congratulates the Office of Management and Budget (OMB) for proposing a validation analysis program. However, the costs and benefits of government entail two separate but related questions: How large is the cost and who must bear those costs. Those answers cannot be answered definitively in advance of regulation, though estimates are made. The reliability of those estimates is an open question, and validation analysis can shed light on that reliability.

NAHB is a Washington-based trade association representing more than 220,000 members involved in home building, remodeling, multifamily construction, property management, subcontracting, design, housing finance, building product manufacturing and other aspects of residential and light commercial construction. Known as "the voice of the housing industry," NAHB is affiliated with more than 800 state and local home builders associations around the country. NAHB's builder members will construct about 80 percent of the more than 1.93 million new housing units projected for 2005, making housing one of the largest engines of economic growth in the country.

OMB's proposal in Chapter II of its *Draft 2005 Report to Congress* is a good start. OMB suggests that a net benefit calculation is a superior measure of the overall

value of regulation, which is true if the scope of examination is limited to theoretical overall economic efficiency. The net benefits approach would sum all the benefits of a regulation and subtract all the costs; a positive difference would mean positive net benefits and the benefits would be greater than the costs. Conversely, a negative difference would mean the costs of the regulation exceed the benefits.

However, those calculations total costs and benefits regardless of who is receiving or bearing them, and regulations often provide relatively more benefits to some people and impose relatively more burden on others. It is not just the relative size of net benefits and costs that matters, but also whether those benefits are achieved by imposing excessive burdens on some people. In short, the economic incidence matters, as well as the economic efficiency, especially when no compensation is paid to those made worse off by the regulation.

In response to OMB's request for rules that could be subject of fruitful analysis, NAHB nominates the 1999 economic analysis for the Phase II Storm Water Rule promulgated by the Environmental Protection Agency (EPA). Any rule that has undergone a SBREFA analysis will have a substantial economic impact record, as well as rules promulgated after a full Regulatory Flexibility Analysis or an Economic Impact Analysis under Executive Order 12866. All of these could provide good background data for rules that have been in effect long enough to have demonstrated their impacts.

If you have any questions or would like further information about these comments, please do not hesitate to contact NAHB Regulatory Counsel AJ Holliday at 202-266-8306 or aholliday@nahb.com.

Best Regards,



David A. Crowe