

December 14, 2015

The Honorable James Lankford
Chairman
U.S. Senate
Homeland Security & Governmental Affairs
Subcommittee on Regulatory Affairs & Federal Management
Washington, DC 20510

Dear Senator Lankford,

As members of the Coalition for Sensible Safeguards, representing more than 150 consumer, environmental, labor, scientific, financial reform, and public health groups, we disagree with many of your conclusions in your recent report, *Federal Fumbles*.

However, we are writing to you not to start a public debate over your policy assumptions, but to respectfully request you to eliminate references to two highly flawed studies in the *Federal Fumbles* report, and refrain from citing the studies in the future.

Throughout, the *Federal Fumbles* report claims that the cost of federal regulation amounts to \$2 trillion or roughly \$15,000 dollars per family. These numbers come from two studies, one commissioned by the National Association of Manufacturers (NAM) and another conducted by the Competitive Enterprise Institute (CEI). Both studies employ questionable data and flawed methodologies to produce results that are so unreliable they cannot be taken seriously. Because of these flaws, both studies, and others similar to them, have been widely discredited by independent experts.

One common flaw in both reports is their one-sided focus only on regulatory costs without any acknowledgement that regulations provide Americans with enormous benefits in terms of saving lives, preventing needless injuries, ensuring a stable financial system, and protecting the environment. The failure to include a consideration of regulatory benefits makes these studies inherently incomplete and profoundly misleading. After all, any decision—from buying a loaf of bread to building a new battleship—would look like a terrible idea if one were only to consider its costs. This flaw alone led the *Washington Post*'s Fact Checker to characterize the CEI report as “misleading,” which resulted in the study being assigned a rating of “at least Two Pinocchios.”¹

While these unbalanced studies may serve the policy aims of those producing such studies, they should certainly not serve as the sole or even primary basis for claims that our country is “over-regulated” as is the case in the *Federal Fumbles* report.

In addition, the reports rely on exaggerated data or fantastical methodologies to generate their results. Perhaps most notoriously, the NAM study employs a model that purports to translate a survey of business leaders' perceptions of a country's regulatory environment into a percent reduction of a country's Gross Domestic Product that results from what the study defines as “economic regulations.” In short, \$1.4 trillion, or nearly three-fourths of the costs that make up the calculations in the NAM study, are derived from a highly subjective opinion survey.

¹ <https://www.washingtonpost.com/news/fact-checker/wp/2015/01/14/the-claim-that-american-households-have-a-15000-regulatory-burden/>

An earlier version of the NAM study conducted by the same authors, which relied on a virtually identical methodology involving business leader opinion surveys, received nearly universal rejection from a wide variety of independent authorities. Indeed, soon after that earlier study first surfaced in 2010, Cass Sunstein, then director of the Office of Information and Regulatory Affairs, dismissed the study's findings as an "urban legend."² The report was debunked by the Congressional Research Service.³ Austin Goolsbee, then the chair of the White House Council of Economic Advisors, called the figure "utterly erroneous."⁴

All of these strong negative comments apply to the new NAM study as well.

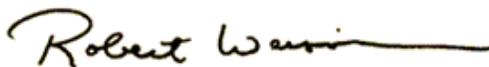
The bottom line is that the best estimate of the annual costs and benefits of federal regulations comes from the Office of Management and Budget. No administration, Republican or Democratic, has ever reported the unrealistically high figure you cite. In 2015, OMB reported that the estimated cost of regulations for that year was at most no more than \$103 billion (in 2010 dollars).⁵ That isn't the net cost, which would be far more accurate, since it accounts for benefits. Nevertheless, that figure is about five percent of the bloated, unsubstantiated estimate cited in your report. According to the same OMB report, the estimated benefits of regulation were as much as \$981 billion (in 2010 dollars) – well over nine times the costs.⁶

These flawed studies regarding the cost of federal regulation have polluted the broader debate about the important role that government plays in keeping our public safe and our economy stable for far too long. We hope that you will take leadership and revise your report to eliminate references to these studies to ensure that we are able to maintain a meaningful and fact-based discussion of this critical issue.

Sincerely,



Katherine McFate, President and CEO
Center for Effective Government
Co-chair, Coalition for Sensible Safeguards



Robert Weissman, President
Public Citizen
Co-chair, Coalition for Sensible Safeguards

CC: The Honorable Ron Johnson
The Honorable Thomas Carper
The Honorable Heidi Heitkamp

The Coalition for Sensible Safeguards is an alliance of consumer, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.

² <http://www.foreffectivegov.org/node/11742>

³ http://www.progressivereform.org/articles/CRS_Crain_and_Crain.pdf

⁴ <https://www.whitehouse.gov/blog/2011/06/23/21st-century-regulatory-system>

⁵ OMB 2015 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act, page 11

https://www.whitehouse.gov/sites/default/files/omb/inforeg/2015_cb/draft_2015_cost_benefit_report.pdf

⁶ Ibid.