

**Statement of  
Senator Susan M. Collins**

**Federal Regulation: How Best to Advance the Public Interest?**

**U. S. Senate Committee on Homeland Security and Governmental Affairs**

**April 14, 2011**

Mr. Chairman, at the outset, I want to thank you for holding this hearing today, and also for agreeing to schedule another hearing soon on the legislative reform proposals that have been referred to this Committee. With these hearings, we begin our review of the federal regulatory process: how it works now, what its impact is on jobs, our economy, and our well-being, and how it might work better in the future.

We are beginning this review with the Office of Information and Regulatory Affairs – OIRA. I welcome its Administrator, Cass Sunstein, back to our Committee and look forward to hearing his views on how the regulatory burdens on our economy—especially on our small businesses—might be lightened or simplified.

Though few outside of Washington are familiar with OIRA, it has enormous influence on regulations that affect the everyday lives of millions of Americans. Through the process of regulatory review, OIRA plays a critical role in shaping the rules by which federal law is implemented. OIRA both informally advises agencies as rules are developed, and then formally reviews the rigor of methodologies used to develop these rules.

In Administrator Sunstein’s confirmation hearing, I noted with approval his support for cost-benefit analysis as well as his recommendation that agencies be required to explain a decision to regulate when the costs of a proposed rule exceed its benefits. I also noted that he recognized that such analysis has limitations when it comes to considering intangible costs and benefits.

The idea of using cost-benefit analysis is not new, of course. In 1981, President Reagan issued an Executive Order prohibiting agencies from issuing regulations unless the potential benefits to society from the regulation outweigh the potential costs to society. In 1993, President Clinton issued an Executive Order that incorporated cost-benefit analysis requirements, and in January of this year, President Obama issued his own Executive Order.

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When President Obama released his Executive Order, he also wrote an op-ed piece in the Wall Street Journal, in which he said that federal regulations have “sometimes ... gotten out of balance, placing unreasonable burdens on business—burdens that have stifled innovation and have had a chilling effect on growth and jobs.”

I agree. All too often it seems federal agencies do not take into account the impact on small businesses and job growth before imposing new rules and regulations.

Without a thoughtful analysis of the impact of regulations, we risk imposing an unnecessary burden on job creation - an unacceptable result at a time when so many Americans remain jobless.

Furthermore, too often I have seen the goals of one agency directly contradicted by the regulations of another agency. Let me give an example: last year, the EPA proposed new regulations known as “boiler MACT.” These rules, as originally proposed, could cost Maine businesses \$640 million, despite the availability of less costly approaches to address boiler emissions. These proposed rules also pit two agencies directly against each other. The Department of Energy, for example, had recently awarded a Maine high school a \$300,000 grant to help buy a new wood pellet boiler to reduce the school’s use of fossil fuels. But because the EPA’s proposed regulations would have greatly increased the cost of that boiler, the school board turned down the federal grant.

Another example of poorly thought-out regulation was the EPA’s new lead paint rule. While all of us want to see lead paint removed or contained for health and safety reasons, the EPA’s flawed implementation of new regulations would have placed an impossible burden on our carpenters, painters, plumbers, and electricians - virtually everyone in the construction industry. The rule requires contractors who work in homes built before 1978 to be EPA-certified or face massive fines of up to \$37,500 per violation per day.

At the time, however, there were only three certification trainers in my entire state - and all in Southern Maine. Two states had no trainers at all! Last June, the Senate passed a bipartisan amendment I authored to extend the training deadline and to delay the punitive fines. The support for my amendment was a strong indication that many states were facing this regulatory Catch-22 of getting required training from nonexistent trainers.

Last month, I offered legislation - which I call “the CURB Act” -- to clear unnecessary regulatory burdens that are holding our job creators back. My proposal would codify the cost-benefit analysis provisions of President Clinton’s Executive Order, impose “good guidance practices” on federal

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agencies, and help small businesses that face penalties for first-time, non-harmful paperwork violations.

The struggling economy has challenged our nation's entrepreneurial spirit. We are recovering, and that recovery will come from the innovative and bold job-creators of America's small-business community. I look forward to Mr. Sunstein's testimony on how we can work together to improve the regulatory review process to ensure that we are not crushing that entrepreneurial spirit that produces innovation, economic growth, and most important, new jobs.