The United States’ Approach to Regulatory Impact Assessment and International Trade

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Regulatory Impact Analysis (RIA)

- In the United States, Executive Orders 12866 and 13563 require agencies to conduct Regulatory Impact Analysis (RIA) for Economically Significant regulations.

- Regulatory Impact Analysis assesses the anticipated consequences of a regulation and estimated benefits and costs.
Basic Goals

• Show whether a regulation maximizes net benefits to society or ensure that benefits justify costs
• Show whether a regulation promotes economic efficiency by regulating market failure and by using cost-effective and market-based approaches
• Increase the transparency of the regulatory process
Guidance for RIAs: Circular A-4

- OMB has issued guidance on how to conduct Regulatory Impact Analysis
- The “Regulatory Right to Know Act” (2000) required OMB to issue guidance to agencies to standardize:
  - Measures of benefits and costs; and
  - The format of Accounting Statement

The latest guidance, OMB Circular A-4, was issued in 2003

http://www.whitehouse.gov/omb/circulars_a004_a-4
The Key Elements of Regulatory Impact Analysis

➢ For all Economically Significant regulations:
  • The Need for Federal Regulatory Action
  • Baseline
  • Alternative Regulatory Approaches
    • Measuring Expected Benefits
    • Measuring Expected Costs
      (Selecting alternative with greatest net benefits)
  • Accounting Statement

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Alternative Regulatory Approaches

- Consideration of:
  - Informational measures rather than regulation
  - Market–Oriented approaches rather than direct controls
  - Different degrees of stringency
  - Different compliance dates

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Measuring Benefits, Costs and other Effects

- Scope of the analysis and a baseline
- Estimating costs
- Estimating benefits
  - Using revealed preference data
  - Using stated preference data
  - Benefit transfer
- Unquantifiable benefits and costs

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Treatment of Uncertainty

➢ For all Economically Significant rules:
  • Characterize probabilities of the relevant outcomes (when feasible)
  • Assign economic value to the projected outcomes

➢ For rules in excess of $1 billion:
  • Formal quantitative analysis of uncertainties about benefits
  • Where level of uncertainty very high
    • Evaluate discrete alternative scenarios

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Consideration of International Trade

- “Concerns that new U.S. rules could act as non-tariff barriers to imported goods should be evaluated carefully.” Circular A-4, P6
- “The analysis should focus on benefits and costs that accrue to citizens and residents of the United States. Where you choose to evaluate a regulation that is likely to have effects beyond the borders of the United States, these effects should be reported separately.” Circular A-4, P15
- The methodology is not explicit

http://www.whitehouse.gov/omb/circulars_a004_a-4
Consideration of International Trade (cont.)

- Circular A-4 recognizes that international trade is a key component of the efficient functioning of private markets
- Agencies do have an obligation to consider trade impacts in their Regulatory Impact Analyses for all Economically Significant regulations

http://www.whitehouse.gov/omb/circulars_a004_a-4
Consideration of International Trade (cont.)

Case Study: USDA APHIS’ Mexican Hass Avocado Import Rule(s)

- 2004 Final Rule published
- 2006 Imports allowed into 50 U.S. States
- 2010 Bulk shipments allowed
- 2014 Allow importation of avocados from Mexico’s additional States

Consideration of International Trade (cont.)

Avocado Rule RIA Projections vs. Actual Outcomes based on Retrospective Analysis

- **Production**: projected decrease of 7.3% in CA; actual stable
- **Consumption**: projected increase by 9.1% in US; actual increase of over 115% in US
- **Prices**: projected decrease of 21.2%; actual stable

Risk Assessment (RA) as Part of the Regulatory Process

- Risk Assessment Seeks to Answer Three Questions
  - What can go wrong?
  - How likely is it to happen?
  - What are the consequences if it does happen?
How Risk Assessments Go Wrong

- Failure to communicate
- Presentation of list of hazards, but no exposure or risk
- No discussion of uncertainty
- Analysis of only a subset of alternatives
- Failure to discuss (or consider) risks that are difficult or impossible to quantify
Characteristics of a Good Regulatory Impact Analysis and Risk Assessment

- Transparency
- Clarity
- Logical structure
- Use of good science
- Well documented
- Includes discussion of sources and magnitude of uncertainty
Questions?
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