

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

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Eliza M. Mojduszka, Ph.D.

Office of the Chief Economist



United States
Department of
Agriculture

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



Regulatory Impact Analysis (cont.)

➤ 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



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



Alternative Regulatory Approaches

➤ Consideration of:

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



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



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

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



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



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?

emojduszka@oce.usda.gov

