

Memorandum

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From: James K. Hammitt
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Subject: OMB Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations

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Overall, the Draft 2010 report represents an improvement on previous reports. I applaud OIRA's continuing effort to enhance reporting of the benefits and costs of federal regulations by supplementing agency calculations of benefits and costs for existing rules, when this can be reasonably done.

I endorse the new column for transfers (in addition to benefits and costs) in Table 1-4. It is important to recognize that transfers are not social benefits or costs, but they can constitute large private benefits and costs. The table could be improved by listing the rules in some logical order, with clustering by agency likely to be part of that logic.

The discussion of the impact of federal rules on state, local, and tribal governments, small businesses, wages, and economic growth (Section D of Chapter I) provides a nice summary of these issues.

The recommendations for reform (Chapter II) appear reasonable, though not particularly aggressive. Continuing efforts to improve the transparency and accessibility of the quantitative and qualitative consequences of rules are important. I especially appreciate the recommendation that the regulatory analysis should include a "simple, straightforward justification" of the preferred option. The recommendation to revisit the estimated social cost of carbon as more is learned seems obvious, given the current uncertainty over its value. Investigation of the incentive effects of disclosure requirements seems a promising area for exploration.

The claim that OMB efforts led to significant net benefits in calendar year 2009, "in a noteworthy contrast" to CY 2001 and 1993, strikes me as a bit forced and to detract from the overall tone of the report. As recognized in the report, rules often take several years to develop and promulgate and so much of what occurs in the first year of an administration is heavily influenced by the previous administration. Second, the net benefits in FY2001

and 2002 (shown in Fig. 1-1) are significantly positive, which suggests some sort of shenanigans were used to find a period with negative net benefits (CY 2001).

In Chapter III, I am surprised that the number of requests for correction under the information quality guidelines is so small (about a dozen a year). I wonder whether it is worth spending several pages accounting for the status of these requests when they are so few. Perhaps it would be useful to provide some qualitative information about the significance of the requests, e.g., do some of them offer the possibility of significant changes in regulations or other policy or do they suggest significant errors in agency estimates of benefits and costs?

Finally, it would be useful to clarify the criteria used to determine when a rule is a “major” rule for which a formal analysis is required. Is the \$100 million annual threshold applied separately to calculated benefits and costs? Are these social or private benefits and costs, or possibly transfers? Is there any consistent definition of which effects are benefits and costs (as opposed to countervailing harms and cost offsets)? Is there evidence of strategic classification of effects as benefits or costs to avoid the threshold? Is the \$100 million threshold adjusted for inflation, or is it implicitly becoming tighter as a consequence of inflation? What is the basis for determining that the many rules listed in Table 1-4, for which no benefits or costs were quantified, are major rules?