



# U.S. Office of Management and Budget Office of Information and Regulatory Affairs

## **OECD Conference Regulatory Policy At the Crossroads: Towards a New Policy Agenda**

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# OIRA's Priorities in the Obama Administration:

- ❖ Improving Regulatory Analysis
- ❖ Improving Disclosure Policies & Increasing Simplification
- ❖ Promoting Open Government
  - ❖ The unifying goal is to ensure that regulation is evidence-based and data-driven, and that it is rooted in the best available work in science (including social science).



# Key Purposes of Regulatory Review:

- ❖ It helps to ensure that regulations are consistent with the law and with the President's principles and priorities.
- ❖ It promotes coordination among different parts of the executive branch.
- ❖ It helps to improve and strengthen the analysis underlying rules.



## A Significant Regulatory Action is one that is likely to result in a rule that may:

- ❖ Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- ❖ Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- ❖ Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- ❖ Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.



# Regulatory Best Practices:

- ❖ All significant regulations should include:
  - ❖ A table placed prominently and offering a clear statement of qualitative and quantitative benefits and costs of the proposed or planned action, together with
  - ❖ Similar information for reasonable alternatives to the proposed or planned action and
  - ❖ A presentation of uncertainties in the evidence



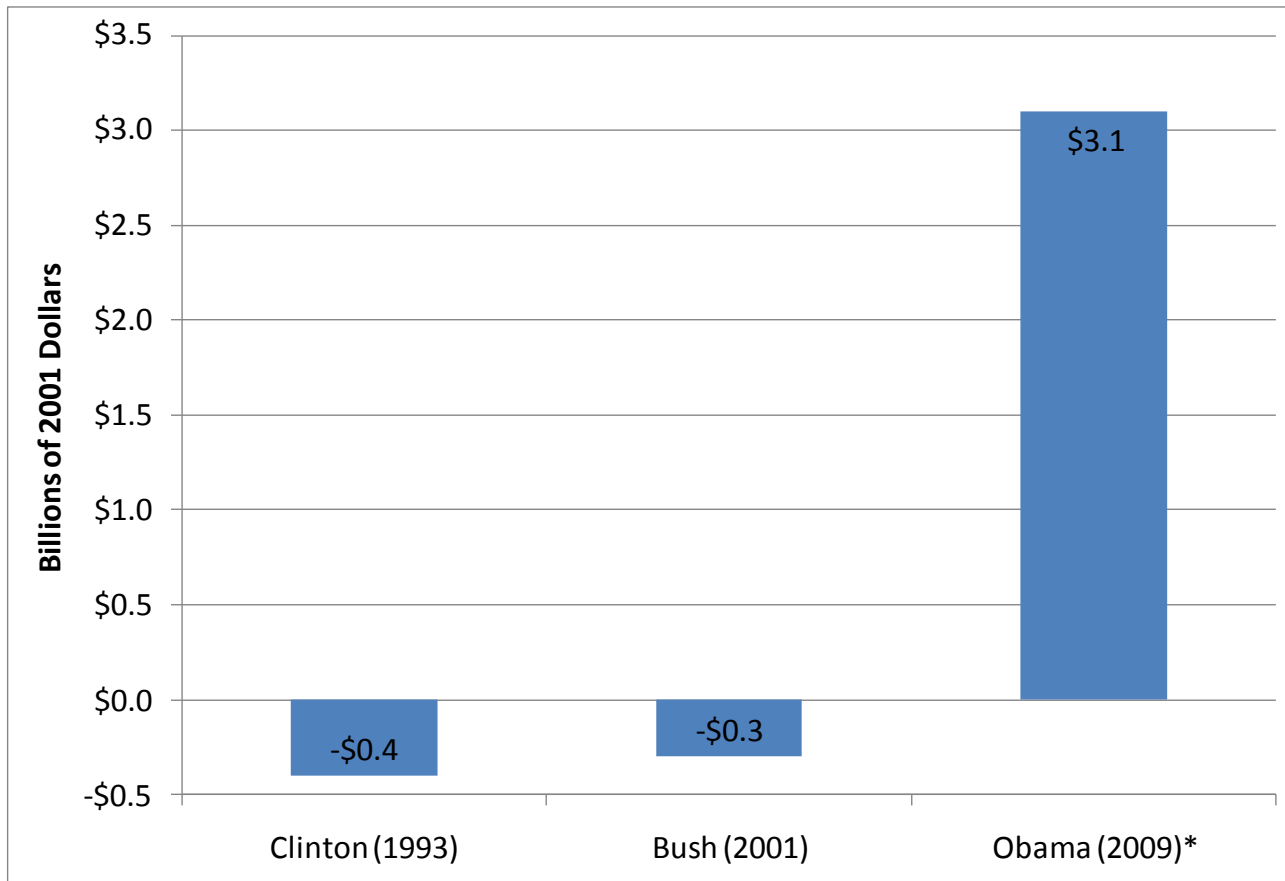
## The Value of Conducting Rigorous Analysis of Alternatives:

- ❖ The motivation is to (1) learn if the benefits of an action are likely to justify the costs or (2) discover which of various possible alternatives would be the most cost-effective.
- ❖ By analyzing alternatives, we are better able to demonstrate that the best alternative was selected.





## Annual Net Benefits of Major Rules First Calendar Year of an Administration (1/21 to 12/31):



\* Preliminary Numbers



# Disclosure and Simplification:

- ❖ Goal is to develop low-cost and low-burden regulatory tools:
  - ❖ Properly designed disclosure requirements can significantly improve the operation of markets, leading consumers to make more informed decisions.
  - ❖ To be effective, disclosure should be clear, meaningful, timely, and salient. To the extent possible, agencies should study in advance the actual effects of alternative disclosure designs.
  - ❖ Disclosure requirements should be both straightforward and simple, and should allow comparison-shopping and promote market competition.





## Key Directive Deliverables:

- ❖ Agencies identify and publish online at least three new, high-value data sets at Data.gov.
- ❖ New interagency working group to oversee Open Government implementation.
- ❖ Designation of agency senior accountable officials to ensure the quality of Federal spending information.
- ❖ Agencies create open government webpages to serve as gateways activities related to the Directive.
- ❖ Agencies publish Open Government Plans describing steps to improve transparency and ensure public participation and collaboration.
- ❖ OIRA clarification of existing OMB policies , such as Paperwork Reduction Act (PRA) guidance and privacy guidance, to promote open government.



# OIRA Policy Review:

## ❖ PRA “Primer”

- ❖ Provides a primer to agencies and the public with respect to the PRA, in order to specify its central requirements and to increase transparency and openness.

## ❖ Social Media and the PRA

- ❖ To increase openness in government, this memo explains that agencies can, consistent with the PRA, use social media and web-based interactive technologies to engage with the public.

## ❖ Paperwork Reduction Act: Generic Clearances

- ❖ To clarify the availability of a helpful tool for making it easier for agencies to collect certain types of information, this memo clarifies how customer satisfaction surveys, focus groups, and contests can be approved by OMB under generic clearances.



# OIRA Policy Review, continued:

## ❖ Privacy and Web 2.0

- ❖ This memorandum allows agencies to use web measurement and customization technologies to improve the Federal government's services online while also safeguarding the privacy of the American public visiting government websites.
- ❖ The new policy makes clear that there are only two uses for which agencies may employ these technologies: (1) to conduct measurement and analysis of usage, or (2) to customize the user's experience.

## ❖ Web Measurement and Customization("Cookies Policy")

- ❖ This memorandum requires agencies to take specific steps to protect privacy when using third-party websites and applications to engage with the public.
- ❖ These steps include (1) examining the third party's privacy policies to evaluate the risks and determine whether the website or application is appropriate for the agency's use; (2) performing a *Privacy Impact Assessment* to evaluate privacy implications and identify appropriate safeguards; and (3) updating the agency's *Privacy Policy* to inform the public about its practices with respect to any personally identifiable information that will be available to the agency.



# OIRA Policy Review, continued:

## ❖ Use of the Regulation Identifier Number (RIN)

- ❖ To promote regulatory transparency and participation, this memorandum provides that agencies should use the RIN on all relevant documents throughout the entire “lifecycle” of a rule.

## ❖ Increasing Openness in Rulemaking: Improving Electronic Dockets

- ❖ To promote greater openness in the regulatory process, this memo provides guidance to agencies in compiling and maintaining comprehensive electronic regulatory dockets on Regulations.gov.
- ❖ The goal is to give members of the public improved access to information on which agencies rely in making decisions relevant to rulemaking.



# Regulations 2.0:

- ❖ Goal: Provide more convenient, public-centered ways of obtaining input on regulatory proposals.
- ❖ Improve and modernize well-established legal and administrative procedures so that it is easier for members of the public to participate in the development of regulations.
- ❖ Web 2.0 tools can be useful even before an agency issues a proposal.



# References:

- ❖ OIRA's homepage: [http://www.whitehouse.gov/omb/infoрег\\_default](http://www.whitehouse.gov/omb/infoрег_default)
- ❖ RegInfo: [www.RegInfo.gov](http://www.RegInfo.gov)
- ❖ Regulations.gov: [www.Regulations.gov](http://www.Regulations.gov)
- ❖ Circular A-4: [http://www.whitehouse.gov/omb/circulars\\_a004\\_a-4/#c](http://www.whitehouse.gov/omb/circulars_a004_a-4/#c)
- ❖ Executive Order 12866: <http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf>
- ❖ Administrative Procedure Act: [www.archives.gov/federal-register/laws/administrative-procedure/](http://www.archives.gov/federal-register/laws/administrative-procedure/)
  
- ❖ OMB/OIRA Guidances and Memos
  - ❖ M-10-22 Guidance for Online Use of Web Measurement and Customization Technologies (June 25, 2010): [http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-22.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-22.pdf)
  - ❖ M-10-23 Guidance for Agency Use of Third-Party Websites and Applications (June 25, 2010): [http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-23.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-23.pdf)
  - ❖ Disclosure and Simplification as Regulatory Tools (June 18, 2010): <http://www.whitehouse.gov/omb/asset.aspx?AssetId=2758>
  - ❖ Increasing Openness in the Rulemaking Process - Improving Electronic Dockets (May 28, 2010): [http://www.whitehouse.gov/sites/default/files/omb/assets/infoрег/edocket\\_final\\_5-28-2010.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/infoрег/edocket_final_5-28-2010.pdf)
  - ❖ Paperwork Reduction Act - Generic Clearances (May 28, 2010): <http://www.whitehouse.gov/omb/asset.aspx?AssetId=2701>
  - ❖ Data Call for the 2010 Information Collection Budget (April, 20, 2010): [http://www.whitehouse.gov/sites/default/files/omb/assets/infoрег/2010\\_icb\\_datacall.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/infoрег/2010_icb_datacall.pdf)





# References Continued:

## ❖ OMB/OIRA Guidances and Memos Continued:

- ❖ Information Collection under the Paperwork Reduction Act (April 7, 2010):  
<http://www.whitehouse.gov/omb/asset.aspx?AssetId=2522>
- ❖ Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act (April 7, 2010):  
<http://www.whitehouse.gov/omb/asset.aspx?AssetId=2521>
- ❖ Increasing Openness in the Rulemaking Process - Use of the Regulation Identifier Number (RIN) (April 7, 2010):  
[http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/IncreasingOpenness\\_04072010.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/IncreasingOpenness_04072010.pdf)

## ❖ Open Government Documents:

- ❖ Open Government Directive (December 8, 2009):  
[http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-06.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-06.pdf)
- ❖ Presidential Memorandum on Transparency and Open Government (January 21, 2009):  
[http://www.whitehouse.gov/the\\_press\\_office/transparencypandopengovernment/](http://www.whitehouse.gov/the_press_office/transparencypandopengovernment/)

## ❖ Reports to Congress:

- ❖ 2010 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities (April 13, 2010):  
[http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/2010\\_Benefit\\_Cost\\_Report.pdf](http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/2010_Benefit_Cost_Report.pdf)
- ❖ 2009 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities (January 27, 2010):  
<http://www.whitehouse.gov/omb/asset.aspx?AssetId=2310>