



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

The Importance of Transparency in Regulatory Reform

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Why is Transparency Important?

- ❖ Improves the quality of regulation by information exchange
 - ❖ Provides information to affected parties that they need to be able to respond to information requests from regulators
 - ❖ Consultation by itself may not be enough. Information exchange should be transparent and open to all interested parties
 - ❖ Deliberative process itself may need to be protected

- ❖ Increases accountability which also improves quality of regulation
 - ❖ By an oversight authority (OMB)
 - ❖ the judiciary
 - ❖ Congress/public

- ❖ Produces support in long run for programs promoting quality regulation
 - ❖ Smart, Better, Smarter
 - ❖ Perceived as fair

- ❖ Quality regulation promotes economic growth and social progress



Regulatory Quality Leads to Strong Macro Performance

- ❑ Studies by the World Bank (*Doing Business in 2006*), the OECD, Heritage Foundation, and the Fraser Institute found that countries with flexible and efficient regulatory systems coupled with strong property rights have the best record on per capita income, economic growth, life expectancy, and the UN Human Development Index.
- ❑ According to a recent World Bank paper using the *Doing Business* data base, moving from the bottom quartile to the top quartile of 135 countries implies a 2.3 percentage point increase in annual **economic growth** – (Djankov , McLiesh, and Ramalho; “Regulation and Growth” (17 March 2006)).



Regulatory Quality Leads to Economic Growth

Top Twenty Economies on the	Ease of Doing Business Scale
1. Singapore	11. Ireland
2. New Zealand	12. Iceland
3. United States	13. Finland
4. Canada	14. Sweden
5. Norway	15. Lithuania
6. Australia	16. Estonia
7. Hong Kong, China	17. Switzerland
8. Denmark	18. Belgium
9. United Kingdom	19. Germany
10. Japan	20. Thailand

Source: World Bank, *Doing Business 2006*



APEC-OECD Checklist Has Several Transparency Requirements

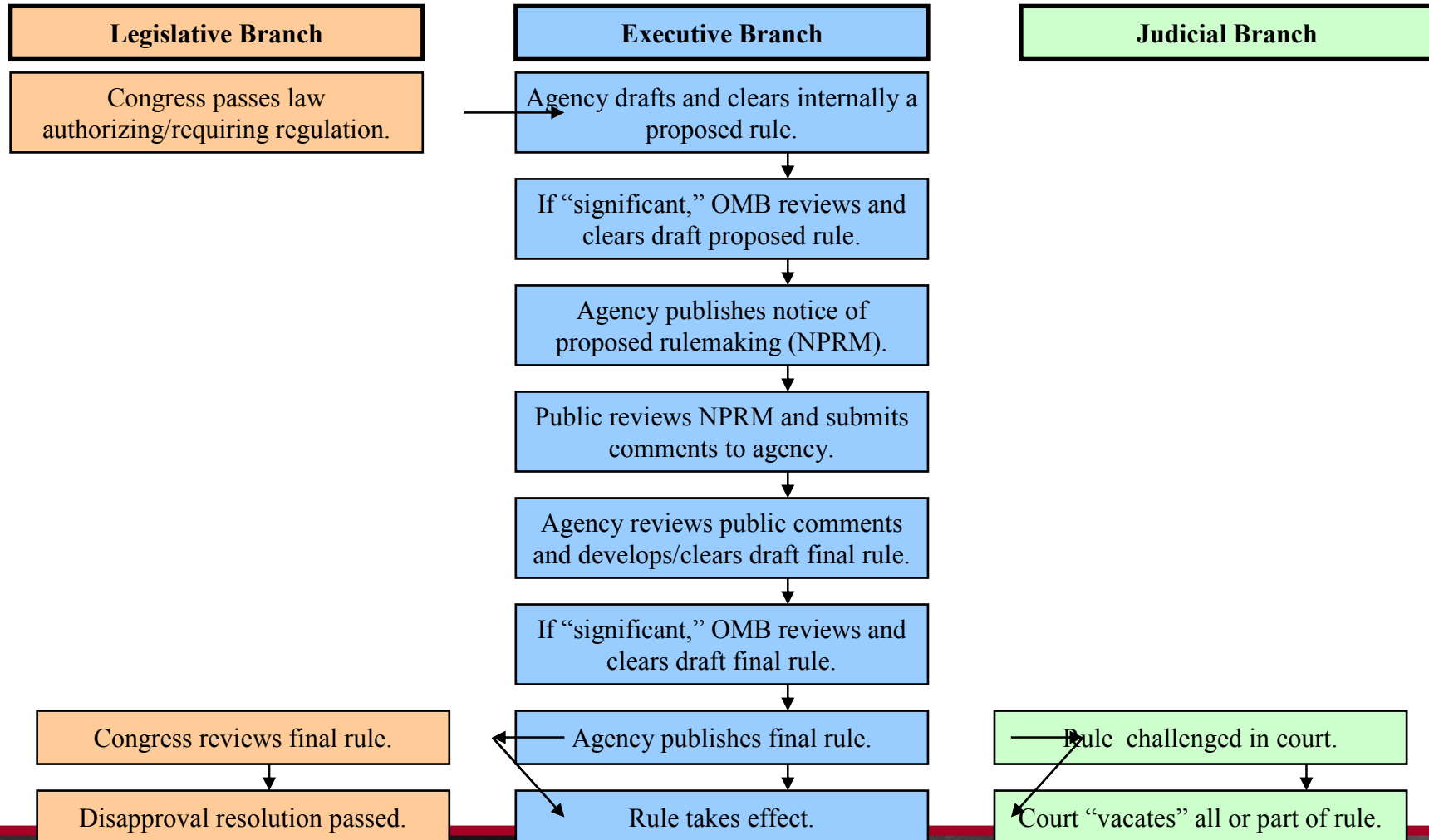
- Laws, Regulations, Guidelines, Policies, Practices and Procedures Should be Transparent, Consistent, Comprehensible, and Accessible
 - Clarifies property rights, eases costs of doing business, and increases fairness.

- Regulatory Institutions, Rulemaking, and the Management Process Should be Transparent and Open to all Members of the Public
 - Contributes to more informed policy decisions and promotes efficiency and fairness.

- Regulatory Impact Analysis Should be Transparent
 - Transparent methodologies, assumptions, and data increases accountability and improves quality of the analysis



US Federal Rulemaking Process and Transparency





Regulatory Transparency and Accountability

Administrative Procedure Act (1946)

- The Act requires that agencies go through a notice and comment process open to all members of the affected public, both U.S. and foreign. Published in the *Federal Register*
- Before agencies can issue a final regulation, they must respond to the public comments, make sure that the final regulation is a logical out-growth of the proposal and the public record, and is not arbitrary or capricious. Published in the *Federal Register* and the *Code Federal Regulations*.
- The public record is used by the courts in settling any challenge to the regulations brought by the affected public.



Regulatory Transparency and Accountability

Disclosure of Information Under Executive Order 12866

- The public can consult OMB's website and learn each day which rules are under formal review at OMB and which have been cleared.
- OMB's website notes which outside groups have recently lobbied OIRA on rules under review.
- All written information given to us while a rule is under review is sent to the agency, placed in our public docket reading room, and posted on our website.
- Return letters sent to the agencies outlining our concerns with rules we send back are posted on our website.



Transparency and Regulatory Impact Analysis

- Transparency Increases the quality of RIAs
- Gold standard in science is reproducibility
- Short of reproducibility, we rely on transparency, peer review, and information quality standards.
- RIAs are subject not just to OMB quality control but also to public comment
- Regulations are subject to judicial review based on the public record



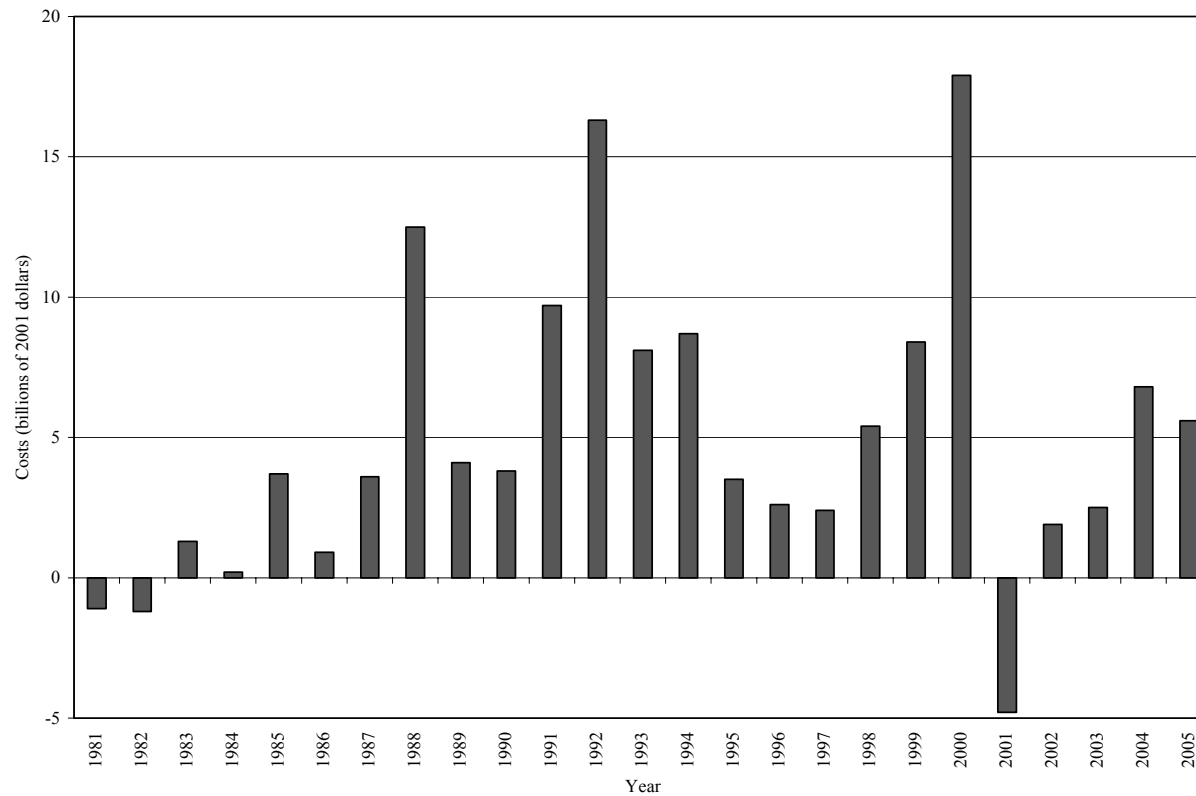
Regulatory Transparency and Accountability

Each Branch of US Government has a Role

- Agencies demonstrate to OMB, acting as an advisor to the President, that their regulatory analysis is of high quality and supports a finding that the regulation is likely to maximize net benefits and is in compliance with the law.
- After OMB concludes its review of a regulation and it is published in the *Federal Register*, Congress reviews it under the Congressional Review Act.
- After a rule goes into effect, affected parties can bring suit against the agency issuing the rule to have the courts reverse or mandate it back to the agency because the agency violated the APA's process requirements, the statute that authorized the rule, or the U.S. Constitution.
- The Regulatory Right-to-Know Act requires OMB to issue a Report to Congress each year estimating the costs and benefits of regulations in the aggregate, by agency and agency program, and by regulation.

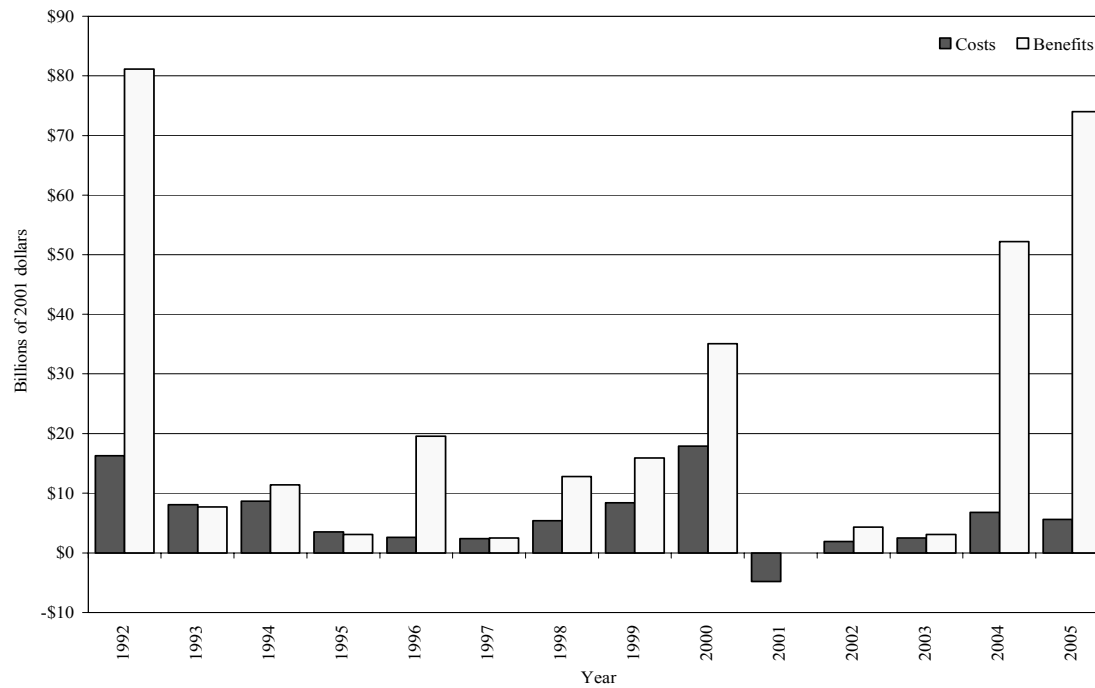


Cost of Major Rules Reviewed by OMB (1981-2005)





Costs and Benefits of Major Rules (1992-2005)





References

- ❑ Administrative Procedure Act. <http://www4.law.cornell.edu/uscode/5/plch5.html>
- ❑ <http://www.whitehouse.gov/omb/inforeg/regpol.html>
- ❑ [RegInfo.gov](http://www.reginfo.gov), where to find Federal regulatory information. The public can use this site to search the the Unified Agenda of Regulatory and Deregulatory Actions and Regulatory Plan, as well as current and past OIRA regulatory reviews in accordance with EO 12866.
- ❑ [Regulations.gov](http://www.regulations.gov), your one-stop site to comment on Federal regulations. The public can use this site to send their comments electronically to agencies on Federal regulations published for comment in the *Federal Register*.
- ❑ Listing of regulations under E.O. 12866 review:
<http://www.whitehouse.gov/library/omb/OMBREGSP.htm>
- ❑ Listing of OIRA's meetings with outside parties on regulations under OIRA review:
<http://www.whitehouse.gov/omb/oira/meetings.html>
- ❑ OMB guidance to agencies on Regulatory Analysis, September 17, 2003:
<http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf>