Comments by W. Kip Viscusi on OIRA Draft 2012 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities, May 23, 2012

Below are some comments on the draft report. I focus my comments on Chapter I and II. Some of my comments address the report to the extent that it functions as an adequate report of regulatory activities in the past year while other comments pertain to the substantive aspects of the regulatory analyses prepared by the agencies. I thought that the most useful sections of the report were those that summarized and tallied regulatory policies rather than the more speculative discussions on matters such as happiness.

Many of my comments are critical of the benefits claimed for the regulations. I believe the Draft Report does an accurate job of reporting the benefits that are estimated in the RIAs. Thus, my criticisms are directed at the underlying analyses by the regulatory agencies rather than the accuracy of OMB's tallies of their analyses. However, I do think that had agencies been required to prepare sounder analyses, the economic desirability of several regulations would have been affected. Despite my critical comments below, overall I liked the report a great deal and think that OIRA has made some excellent recent advances.

Executive Summary

I agree with the theme expressed on p. 5: "Consideration of flexible, low-cost approaches, preserving freedom of choice, is often important, both as a means of reducing costs and as a reflection of respect for heterogeneity and the fact that often one size does not fit all." This theme provides a good summary of why the various energy efficiency and fuel economy regulations are misguided. My working paper with Ted Gayer of Brookings, which will be released shortly, explores these regulations in detail. I will return to this topic at many junctures below.

The executive summary does a nice job of listing several recent innovations by OIRA, which are excellent, such as increasing public participation and identifying outmoded and inefficient regulations.

Chapter I

On p. 13 there is reference to the two overlapping rules by EPA and NHTSA on fuel economy. While these come up again later, now is as good a time as any to comment on these. I have several reservations regarding the benefits:

i) Most of the benefits claimed for these regulations as well as for other energy efficiency standards (e.g., light bulbs, air conditioners, clothes dryers) are private benefits. The RIAs for motor vehicles and other consumer durables do not provide adequate justification for why there is a market failure with respect to those benefits. Rather there is an assertion that there is a market failure so that all the energy savings can be claimed as net benefits.

ii) Unlike the market process in which consumers can select products based on multiple product attributes, the analyses of energy regulations focus almost exclusively on vehicle cost and fuel economy, with some modest consideration of safety. The effect of the regulations on the many other product dimensions of cars and regulated consumer durables are not considered.

iii) The greenhouse gas (GHG) benefits are overstated. The appropriate measure of benefits from the standpoint of the U.S. citizenry is the domestic benefits component of the GHG benefits, not the benefits to the world. If the world becomes the pertinent reference point, most policy expenditures would be redirected to more beneficial activities such as reducing poverty and disease in Africa. To the best of my knowledge, this is the first instance in which U.S. regulatory agencies have claimed benefits to the world not the U.S. in an RIA. I don't believe this innovation has sound grounding in economic theory. In any event, recognizing world GHG benefits is a major regulatory analysis innovation that strikes me as meriting more discussion in the report.

The discussion of VSL on p. 17 and FN 19 was good. I continue to believe that the VSL used by most agencies is too low. As I indicated in a recent meeting with DOT officials (Jack Wells et al.) and Al McGartland of EPA, I believe a value of $9 million would be more appropriate. That is the number in current dollars that emerges from our preferred specifications in Kniesner, Viscusi, Woock, and Ziliak, "The Value of Statistical Life: Evidence from Panel Data," *Review of Economics and Statistics*, 2012. It is also the estimate in current dollars of the median VSL value in the meta-analysis by Viscusi and Aldy, "The Value of a Statistical Life: A Critical Review of Market Estimates throughout the World," *Journal of Risk and Uncertainty*, 2003.

Many agencies are currently re-assessing their VSL amounts, which differ both across and within agencies. While there is a recent range of $5 million to $9 million as noted at the end of FN 19, these differences arise because of differences with respect to which studies the agencies have chosen to use in selecting their value. None of the differences across agencies can be traced to legitimate differences in the risks being valued or the populations being protected. Such factors could enter, such as EPA's consideration of a cancer premium, but they do not account for the current observed VSL range. To the extent that all agencies are attempting to identify some baseline VSL amount, there should be less variation in the VSL amount. EPA and DOT appear to be the agencies that are giving the most serious thought to these issues. OMB could potentially provide more centralized guidance as well.

The benefits estimated for cigarette warning labels (p. 23) are overstated. As indicated in my submission to the FDA, there is no evidence that graphic warnings had a statistically significant effect on the trend in smoking prevalence in Canada, the U.K., or Australia. And given the widespread knowledge of the hazards of smoking in the U.S., one would expect a similar outcome in the U.S.

The preponderance of the benefits –typically about 90% of the benefits-- for the 3 DOE energy efficiency standards (p. 23) and the DOT and EPA fuel efficiency standards (p. 24) are private benefits that assume that consumers and firms are completely irrational. The RIAs provide no justification for this strong assumption. I discuss these regulations above and below as well.

The happiness discussion on pp. 40-44 strikes me as much more speculative than the rest of the report. Happiness research will continue, and there will be sessions at conferences such as the recent ALEA conference dealing with possible uses of happiness indexes. But, as the OMB Draft Report indicates, there is some controversy over whether these measures have any meaning as a cardinal measure of welfare. More important is that there is no pretense that the happiness measures are a substitute for the willingness-to-pay benefits methodology used in benefit-cost analysis. I would delete this discussion altogether as it does not address what any agency has done or should be doing in their RIAs. It strikes me as something more relevant for the CEA's Economic Report of the President.

Chapter II

I like the discussion of the redesigned fuel economy label (p. 51), although I think that EPA could have designed a more effective label. What was particularly striking to me is that the labeling approach, which is quite consistent with the smart disclosure theme, addresses many of the same concerns as the fuel economy standards, as is discussed on p. 66. Yet the RIA for the fuel economy standards does not take these benefits into account as far as I can tell. Either the fuel economy labels are worthless or the benefits of the fuel economy regulations are overstated.

For reasons stated above, I believe that the benefits of the fuel economy regulations cited on p. 55 are overstated.

I like the OMB 2011 Report discussed on p. 58 and especially like the calculation of a "net cost per life saved" as an approach to better understanding the merits of regulations and dealing with problems of comparability across agencies that use a different VSL.

It would be helpful to me if you could elaborate a bit on how hazard warnings are being simplified and will save money (p. 61). My analysis of the Reagan administration's hazard communication regulation led to the issuance of these regulations so I am curious as to how the cost savings and increased effectiveness are being achieved. The savings are large so presumably a sentence or two could describe how they are being achieved.