



Written by [William P. Hoar](#) on November 20, 2017

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Correction, Please!

Officials Try Deregulation; Peeved Tree-huggers Bark Back



A sampling of news articles:

Item: *The New York Times reported on October 9 that the Environmental Protection Agency had just announced “that Scott Pruitt, the chief of the agency, had signed a measure to repeal President Barack Obama’s signature policy to curb greenhouse gas emissions from power plants, setting up a bitter fight over the future of America’s efforts to tackle global warming.”*

Item: *In an article about how the Trump administration is trying to undo many regulations and executive actions handed down by the Obama administration, the Washington Post said on October 14 that President Trump “is increasingly using his executive powers in a risky bid to gain leverage with lawmakers on an array of unfulfilled campaign promises.”*

The paper cited, among other opponents of the president, the Democratic governor of Connecticut, Dannel Malloy. As the Post put it: “Malloy argued that Trump seemed motivated more by undoing Obama’s legacy than by advancing any coherent policy aims of his own. ‘If he had followed Lincoln, he’d have tried to reinstate slavery,’ said Malloy, who chairs the Democratic Governors Association.”

Item: *The Sierra Club, in an article on October 18 entitled “Scott Pruitt and the Myth of ‘Sue and Settle,’” blasted Trump’s Environmental Protection Agency administrator. “This week,” said the eco-activist group, “Scott Pruitt and his polluter cronies are aggressively perpetrating the lie they call ‘sue and settle’ as a way of refusing to enforce our nation’s critical environmental laws. On Monday, Pruitt announced that the Environmental Protection Agency would avoid settling lawsuits with public interest groups and instead would lean toward fighting cases in court. But don’t be fooled: This is a phony remedy in search of a problem to solve.”*

Item: *The “Fact Checker” of the Washington Post on October 12 examined President Trump’s comments about how successful he had been in cutting regulations.*

The checker did his best to throw cold water on the claim, but couldn’t quite bring himself to call this a lie deserving of the column’s “Pinocchio” label. The Post columnist did, with rather bad grace, conclude: “Trump may have grounds to brag, but his claim cannot be easily verified. There is no reliable metric on which to judge his claim — or to compare him to previous presidents. Something is clearly happening on the regulatory front, as demonstrated by the number of withdrawn rules. But it’s too soon to evaluate Trump’s record — or for the president to make such sweeping claims.”



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Correction: Honest observers generally can fit their conclusions to newly acquired facts. Alternatively, there are, among others, the *Washington Post*, *New York Times*, and Sierra Club. They try to alter the truth until it can be shoehorned into their preconceived notions.

There are few sentient beings who do not recognize that the United States is awash with expensive, unnecessary, often contradictory, and generally burdensome regulations. Some “progressives” might even — very quietly and under duress — admit that many federal edicts are constitutionally suspect. However, when the current administration started to cut us out of this noxious regulatory undergrowth, its foes were loath to admit that this action could be a welcome relief.

A recent issue of the *Economist* — a London-based magazine (self-identified as a “newspaper”) with a reputation of being influential among the intelligentsia — evaluated the White House’s progress on deregulation. The supposed cost-benefit analysis was itself revealing. Each begrudgingly delivered positive comment was accompanied by caveats, warnings, half-truths, and reservations — lest, one gathers, that the breakdown be branded as “Trumpist.”

“This newspaper,” went the heavily measured piece, “laments Republicans’ shameful denial of scientific facts, and despairs at the unwillingness of Congress to act to address climate change. Yet the argument that Mr. Obama stretched the boundaries of his legal authority has merit.”

That’s bully to say since the article had already found itself forced to admit that in recent decades “excessive rulemaking has been obvious,” to the point that “wonks of many stripes” agree that this growth is excessive and “the rule book must be shortened.” The language is full of such “yes, but” commentary.

We are also instructed that the proper roles of regulators are, among others, “to identify and correct market failures.” And, lest we miss it, we are told about a potential “danger,” namely, that the “real goal” of the administration might be “to govern in the name of business.” The White House is said to be “focused on reducing costs to companies; wider benefits barely seem to enter its thinking.”

Never mind that Americans benefit when the American economy does well. And businesses tend to do better when they are not being harassed by federal bureaucrats.

Former House Speaker Newt Gingrich has summarized how the deregulatory effort has been going. He noted this past summer that since the start of President Trump’s term, he and congressional leaders had revoked 14 job-killing federal regulations through the Congressional Review Act. This includes 1,114 pages of needlessly expensive labor rules, arduous environmental regulations, destructive financial guidelines, and other economy-hampering bureaucratic decrees.

Research by the American Action Forum based on impact analysis created by federal agencies shows that repealing these regulations “will save \$3.7 billion in total regulatory costs (\$1.1 billion annually) and eliminate 4.2 million hours of paperwork.” Non-government estimates suggest cutting these harmful rules will save more than \$36.2 billion, according to the AAF.

Writing in July in the *Wall Street Journal*, Greg Ip was able to find some metrics to use to summarize the ongoing efforts, noting that in Trump’s first six months, “rule-making has changed dramatically.” The latest update on regulatory actions had just been released by the White House Office of Management and Budget. It contained, said the columnist, “1,731 preliminary, proposed or final rules, down 40% from its peak under Mr. Obama in 2011 and a 17-year low, according to Sofie Miller of George



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Washington University's Regulatory Studies Center. Many actions taken under Mr. Trump are actually reversals of earlier rules. Ms. Miller says of 66 completed actions at the Environmental Protection Agency, a third were rule withdrawals."

Photo: AP Images

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There are plenty of targets to cut. Many have been itemized by Clyde Wayne Crews, Jr., who specializes in this area for the Washington, D.C.-based Competitive Enterprise Institute. His annual "Ten Thousand Commandments" about the imperious nature of federal regulations is must reading. In a recent article, Crews observed:

Bureaucracy, rather than interaction with elected representatives, dominates the relationship of the individual to the government. The number of rules promulgated by executive branch agencies far outstrips the number of laws passed by Congress. During calendar year 2016, Congress enacted 214 laws, while agencies issued 3,853 rules. That means agencies issued 18 rules for every law passed by Congress. The average annual ratio over the past decade has been 27.

In early October, Crews hailed the president's focus on tax reform and cutting red tape, calling it good news for consumers, businesses, and the economy. As the free market analyst pointed out, in "recent years, I've estimated the baseline for the U.S. federal regulatory burden has amounted to nearly \$2 trillion annually. This amounts to a hidden tax of nearly \$15,000 per household in a given year." Among his numerous examples, Crews pointed to Trump's "significant" proposed rules, noting that they were "drastically below any predecessor. They are down 77 percent compared to Obama. Trump: 65, Obama: 290."

And, no, in none of those actions — despite the bizarre rant (see above) of the governor of Connecticut — has Trump tried to reinstate slavery.

Federal agencies have been making headway in deregulatory efforts. The EPA's "sue and settle" action (cited above) is a prime example, with Administrator Pruitt issuing a directive ending that practice within the agency. The U.S. Chamber of Commerce — characterized by the souls at the Sierra Club as the "pollution-backed" chamber — has summed up the practice as follows:

"Sue and Settle" refers to when a federal agency agrees to a settlement agreement, in a lawsuit from special interest groups, to create priorities and rules outside of the normal rulemaking process. The agency intentionally relinquishes statutory discretion by committing to timelines and priorities that often realign agency duties. These settlement agreements are negotiated behind closed doors with no participation from the public or affected parties. As an example, between 2009 and 2012, EPA chose not to defend itself in over 60 lawsuits from special interest advocacy groups. These cases resulted in settlement agreements and EPA publishing more than 100 new regulations — including the Clean Power Plan.

Gosh, that sounds like the curbing of eco-extortion! How unfair to the extortionists — who have often been paid back by federal taxpayers for making their lawsuits.

The *Wall Street Journal* has well described what had been happening prior to Administrator Pruitt. For years, as the editors of the *Journal* commented, "green activists have used sue and settle to impose policies they can't get through Congress. Their allies in the EPA would invite lawsuits, then settle with



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the greens by agreeing to implement some or all of their policies in consent decrees. When citizens or business complained, EPA would claim its hands were tied by the settlement.”

Overall, noted the *Journal*,

the Obama EPA imposed a record-breaking 55 federal implementation plans under the Clean Air Act. And since 2009 EPA agreements with litigious environmental groups have resulted in no fewer than 137 new Clean Air Act regulations. The costs of several of these rules run well into the billions, including some of the most expensive ever written....

Too often, bureaucrats and greens have been the sole parties involved in sue-and-settle negotiations. That has meant no dissenting perspectives and no representation for voters and consumers who pay for heavy-handed federal regulation....

Environmental groups will also no longer be considered the “prevailing party” when litigation does end in settlement. This is an immediate victory for taxpayers, given that green activists have used their prevailing party status to get the EPA to reimburse them for millions of dollars in legal fees.

The EPA, especially in the Obama years, was not alone in tying up the nation in red tape. But there have been encouraging steps in several agencies. The *Washington Examiner* not too long ago highlighted some of the actions, pointing to, among others, Interior Secretary Ryan Zinke, for reining in restrictive land-use policies; Transportation Secretary Elaine Chao, for streamlining permitting processes for infrastructure projects; Office of Management and Budget Director Mick Mulvaney, for modernizing government services; and Federal Communications Commission Chairman Ajit Pai, for fighting against the Obama administration’s attempts to regulate the Internet as a telecommunications service.

The diktats and their profusion boggle the mind. This is not just an annoyance. These directives from the central government take a significant toll on the economy — and our liberty. The after-effects of the Obama administration will not disappear soon. Last year, as regulatory specialist Diane Katz wrote, about 40 percent of the “major” rules (21 of 54) promulgated by the Obama administration during its last year were finalized after the November 8 election. Think of these as land mines left to the opposition party to follow. As Katz observed:

These “midnight” regulations included some of the costliest rules of the year, including the EPA’s renewable fuel standard (\$1.1 billion) and the Department of Energy’s energy conservation standards for air conditioners and heat pumps (\$741 million).

On the day Trump took office, his administration inherited 1,985 regulations in the rule-making pipeline — 966 in the proposed stage and 1,019 in the final stage.

And then, when the new president and several of his agency heads, including the new EPA administrator, tried to institute a degree of common sense, the vested special interests and their media mouthpieces lashed back at them and their “polluter cronies.”

Legal action has been threatened. These eco-activists are nothing but flexible: They can file a lawsuit with one hand and hug a tree with the other.

Photo: AP Images



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