



Written by [William P. Hoar](#) on March 4, 2019

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Correction, Please!

What Regulators Really Need: A Constitutional Diet

Item: *A new analysis of Environmental Protection Agency data, according to the Washington Post for January 24, 2019, reveals “that civil penalties for polluters dropped dramatically during the first two years of President Trump’s administration.” This analysis was made, as the Post acknowledged later in the story, by the woman “who headed EPA’s enforcement office under Obama.”*



“EPA watchers within the federal government” are said to be “concerned” that there is less attention being paid to levying charges or imposing fines by the Trump EPA.

Item: *A “special report” in the “liberal” establishment New York Times for December 27, 2018, taking up a complete section of 12 pages of the paper, blasted in large, bold type how “President Trump’s retreat on the environment is unfolding in extraordinary consequential ways for the health and safety of Americans.” In “just two years, Mr. Trump has unleashed a regulatory rollback, lobbied for and cheered on by industry, with little parallel in the past century.”*

Trump’s “approach on the environment,” the paper stressed at the top of its condemnation, “has been to neutralize the most rigorous Obama-era restrictions, nearly 80 of which have been blocked, delayed or targeted for repeal,” according to the paper’s analysis. In tiny print on the 12th page that few will read, there is a list headlined: “78 Environmental Rules on the Way Out Under Trump.”

Item: *The BBC News website for December 6 was headlined: “Trump’s environmental rollback rolls on,” with this lede: “The Trump administration has dealt a double blow to Obama-era environmental policies in an ongoing rollback that has targeted scores of rules.”*

Item: *Time magazine, in its print version of a double issue dated February 4/February 11, features an article called “A Government by Too Few.” The article states the number of federal employees hasn’t kept up with the growing population, even as “budgets and programs have expanded.” There are, we are told, “far more citizens for civil servants to serve, assist and protect.” The piece, written by three former government officials, complains that, among other charges, each congressional appropriation staffer is responsible for more federal dollars than in the recent past. It bemoans the “failure to adequately staff the federal government.”*

Correction: There appears to be little danger that our government will be overthrown — because there is too much of it.

Yet, if one is to trust the wisdom of the ersatz intelligentsia, as reflected by the excerpts above, the



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central government is still too small and does not interfere sufficiently in the lives of its serfs or impose enough heavy fines on domestic businesses.

During the recent government shutdown, they cried foul. Yet for some reason, there were few media and “green” tears shed for workers when President Obama, as he was leaving office, battered an entire, already beleaguered coal industry with more crippling regulations. The tears appeared when the Trump EPA proposed some relief.

Here are a few of the rules under scrutiny by the Trump administration (expediently, in minute print in the *New York Times*). The Interior Department has — if you can believe it! — overturned a ban of using parts of migratory birds in handicrafts made by Alaskan Natives. Stunning, eh?

Then there is an executive order announcing Trump’s intent to stop payments to the Green Climate Fund. And what amazing programs have U.S. taxpayers been funding? Well, it is an international welfare scheme with an innocuous name or, as the *New York Times* says, a “United Nations program to help poorer countries reduce carbon emissions.” (Even collecting, no doubt, while burning coal.)

And here’s a bit more on one horrendous “blow” inflicted, as referred to above by the BBC News: Trump’s EPA has unveiled plans that would allow oil drilling on millions of acres that have been off-limits, ostensibly to protect the habitat of the greater sage grouse. The bird, we are told by the *NYT*, has an “elaborate mating dance.” Positively charming, we’re sure. There are also hundreds of thousands of them, at least, living in parts of 10 states. Never mind that Interior intends to protect the bird in question “while also ensuring that conservation efforts do not impede local economic opportunities.”

The *Times*, the BBC, and all others flaunting green hearts on their sleeves are also distraught that the Trump EPA would dare to propose eliminating Obama-era restrictions aimed at requiring newly built coal power plants to capture carbon dioxide emissions. If you can stand the shock, consider the admission of current EPA Acting Administrator Andrew Wheeler, who explains: “We are rescinding unfair burdens, levelling the playing field.” How deplorable.

Nevertheless, Competitive Enterprise Institute senior fellow Marlo Lewis in December applauded the EPA’s

proposal to rescind the prior administration’s carbon dioxide emission standards for new coal power plants. Those standards are based on the fiction that prohibitively-expensive, geographically-limited carbon capture and storage (CCS) is an adequately demonstrated “best system of emission reduction.” The standards effectively ban the construction of new coal power plants — a policy Congress never approved and would not pass if put to a vote. By lifting the ban, EPA’s proposal will help restore the separation of powers and safeguard affordable energy for American consumers.

Though oh-so-tolerant “liberals” would prefer to keelhaul certain company officials for running afoul of federal rules, the EPA under Trump is now trying another tack — compliance. Top agency official Susan Bodine, for example, has described how the “EPA intends to evolve the National *Enforcement* Initiatives program into a National *Compliance* Initiatives.” Daren Bakst, a senior research fellow at the Heritage Foundation, supports this approach: “It is better to prevent environmental violations from occurring in the first place than to act after the fact when environmental violations have already occurred. This is why improving compliance is so important.”

The political Left prefers persistent meddling, seasoned with excessive taxing and spending. That view



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is held by the gaggle of candidates running for president on the Democrat side, who echo one another while boasting of their national goals of socialism and beyond.

Investor's Business Daily, among other wary viewers, sees it differently, aghast at the proposals replete with regulations — such as “Medicare for all,” “universal Pre-K,” “universal free college,” “guaranteed jobs,” “paid family leave,” expanded Social Security benefits, and a federal minimum wage of \$15 an hour. Their costs are staggering, points out *IBD*:

“Medicare for all,” for example, would cost, conservatively, \$32 trillion in its first 10 years. The “guaranteed jobs” price tag is about \$7 trillion over a decade. Universal Pre-K: \$150 billion. Free college: \$750 billion. The “Green New Deal” — untold billions.

When the Manhattan Institute added up the cost of this expansive agenda, the price tag totaled \$42.5 trillion over 10 years, or roughly \$4.2 trillion a year. And that’s likely a lowball estimate, since government programs almost always end up costing far more than expected.

Exactly how big is this tab? Well, consider that in 2018, the federal government spent a grand total of \$4.1 trillion.

So, we are talking about *more than doubling the size of the federal government*. [Emphasis in original.]

It would result in the federal government controlling more than 40% of the nation’s GDP. When you add in state and local spending, the result would be that government would control 58% of the nation’s economy.

In our commentary, we have focused largely on the EPA and the partial federal shutdown, but the regulatory state is immense. Many of those furloughed in the agencies involved had one paycheck delayed (and guaranteed to be paid).

Still, a goodly number of bureaucrats are overpaid (in tax dollars) and work less than those in the private sector. In January, the Cato Institute’s Chris Edwards noted that the feds employ 2.1 million civilian workers in hundreds of agencies. Wages and benefits for executive branch civilian workers, in 2018, cost an estimated \$279 billion. Here are some other relevant figures:

Since the 1990s, federal workers have enjoyed faster compensation growth than private-sector workers. In 2017 federal workers earned 79 percent more, on average, than private-sector workers. And federal workers earned 43 percent more, on average, than state and local government workers....

In 2017 federal civilian workers had an average wage of \$90,794, according to data from the U.S. Bureau of Economic Analysis (BEA). By comparison, the average wage for the nation’s 116 million private-sector workers was \$61,311.

Moreover, as Edwards observed, “When benefits such as health care and pensions are included, the federal compensation advantage over private workers is even larger, according to the BEA data. In 2017 total federal compensation averaged \$130,429 or 79 percent more than the private-sector average of \$72,992.”

At the same time, it is notoriously difficult to fire a federal employee (just about 0.5 percent a year, around one-sixth the rate of the private sector). And relatively few quit (the federal quit rate is around one-fourth that of the private sector).

While averages and different populations are not perfect for comparisons, the differing benefits of those



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in generally similar positions in federal employment and the private sector tend to hold. According to a Congressional Budget Office study in 2017, the cost of employee benefits was 47 percent higher for federal civilian employees than for similar private-sector employees.

We are paying dearly for their benefits even while hoping these regulators might cut us a break if we stumble over a rule. Accordingly, we don't usually get distressed when a particular bureaucratic rule gets trimmed or modified. There are more than enough to go around. Recent accounting reveals that since the quarter century or so since the start of the Clinton administration, there have been 101,380 rules instituted. While the total in 2017 was 3,281 new rules — that contrasts to the 97 laws enacted by Congress.

Also we should recognize that the left-wing, green-leaning media — the *New York Times*' incessant railing against "polluters" being a prime example — tend to be selective with their venom.

Robert Bryce, a senior fellow at the Manhattan Institute, has pointed out that many large "environmental" groups and their political allies pushing "all-renewable schemes" aren't telling the whole story. They refuse, as Bryce wrote in January, to acknowledge

the simple truth that deploying renewable energy at the scale required to fuel the U.S. economy would require covering state-sized territories with nothing but wind turbines and solar panels. It would also require stringing tens of thousands of miles of new high-voltage transmission lines.

Deregulation is a long task, and largely thankless. The elimination of rules has its own rules. This phenomenon has been described by Clyde Wayne Crews of the Competitive Enterprise Institute (who had to use somewhat different figures this year, as it happens, because of the partial shutdown).

In a year-end summary, Crews took a look at Trump's goal to eliminate two significant rules for every one that was adopted. (The total of *Federal Register* pages in 2017 was 61,308, the lowest since the Clinton administration in 1993, and a big improvement from the 95,894-page record set by the Obama administration in 2016. The *Register* page count was up 10 percent in 2018.) Trump's agencies, said Crews, had to write a new one to get rid of an old one:

So in a perverse sense, he can't shrink the *Federal Register* page count and the number of rules, but has managed to do it anyway by writing fewer new regulatory rather than deregulatory ones. Meeting the two for one directive is getting tougher without congressional action as the low-hanging fruit is picked.

There is truth to the claim that governmental institutions have grown too dependent on federal funding and oversight by the regulatory state. The answer, however, is not more of the same.

It will take a courageous Congress to slash, permanently, the power of the regulators. And without lasting measures, executive orders can be reversed by a new occupant of the White House. The durable solution isn't furloughing bureaucrats, but reforming a government to be bound by what Jefferson called the "chains of the Constitution."

Until then, we will continue to pay, in sundry ways, for those who are burdening us with endless regulations — giving us far too much overhead in an exceedingly underhanded fashion.

— William P. Hoar

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