



Regulating Jobs to Death

The regulation czar's remarks accompanied the results of a review of 30 agencies that he called a "defining moment" in the reform effort. Sunstein, the administrator of the Office of Information and Regulatory Affairs, which is part of the White House's Office of Management and Budget, said: "They will not only yield significant savings for individuals and businesses, but they will also help us strike the right balance, protecting the public from serious harms even as we eliminate rules that just don't make sense."



Item: *On May 26, The Hill, a Capitol Hill publication, reported: "The Obama administration laid out plans Thursday to review hundreds of regulations that could get streamlined or scrapped in response to criticism from the GOP and business that burdensome rules are holding back the economy. The 30 agencies and departments with significant rulemaking activity have submitted for public review more than 500 pages of initiatives that could save billions of dollars a year, according to White House regulatory czar Cass Sunstein."*

Correction: Perhaps one should be grateful for small favors, but this tiny bit of window-dressing from the President's regulatory czar is such a paltry effort that it is hardly worth a nod.

The savings from the potential nicking of red tape, according to one authoritative estimate, would amount to about \$1.5 billion. That is chump change in Washington, D.C. The current annual total burden of federal regulations, according to a recent Small Business Administration study, is about \$1.75 trillion — putting this proposed deregulatory snip at about one-tenth of one percent of the overall cost of complying with federal regulations for a year.

Keep in mind that the current annual cost of such regulations is far more than the total of all individual income taxes collected in the United States. Facing this whale of a problem, the solution is not to catch a tadpole or two.

And the projected savings assumes the reforms and streamlining will actually take place. Cary Conglianese points out in RegBlog for the Penn Program on Regulation, a project of the law school at the University of Pennsylvania:

[The agencies' plans] are, after all, just plans. Moreover, many of the initial rules agencies have proposed to put under the microscope seem underwhelming. Frequently they are what might be



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considered “paperwork” rules, with agencies hoping to find ways to streamline reporting and make more information available online. The Treasury Department, for example, plans to review an Internal Revenue Service regulation so as to correct instructions about where to file for a tax refund or credit. The Commerce Department’s plan identifies, among other things, the rule governing the “application number” and “filing date” for patents.

It is true that, due to the goodness of the hearts of the astute civil servants at the Environmental Protection Agency, American dairy farmers will apparently, after decades, no longer be forced to consider a possible milk spill as if it were the equivalent of the *Exxon Valdez* supertanker spewing crude into Prudhoe Bay. As the *Wall Street Journal* observed, “it took a Presidential-level review to get the EPA to stop treating spilled milk like an oil slick.”

In terms of dollars, one of the largest items of potential savings comes from the Occupational Safety and Health Administration. The agency says it plans “to finalize a proposed rule that would harmonize U.S. hazard classifications and labels with those used by other nations, which is expected to result in an annualized \$585 million in estimated savings for employers.”

Zounds! We should no doubt strike up the band and play the FDR-era theme song, “Happy Days Are Here Again!”

Or perhaps not. After all, in January, even as President Obama was boasting about his anti-regulatory efforts, he was also pushing at least a dozen new regulations in his State of the Union Address.

The small anti-paperwork pat on the back noted above made no mention of what has been happening on a larger scale. The regulatory czar’s review was silent, as noted by Phil Kerpen of Americans for Prosperity, on the EPA’s “job-crushing boiler and utility rules, and its unconstitutional attempt to install cap-and-trade energy taxes through the backdoor. The FCC is still poised to regulate the Internet — ignoring Congress, the courts, and the American people. The NLRB — led by recess-appointed union radicals and an unconfirmed acting general counsel — is threatening to establish a presumption of retaliation against any business that moves jobs from a forced unionization to Right-to-Work state.” In addition, he writes, the U.S. Interior Department is trying to unilaterally “create a new designation for ‘wild lands’ that have ‘wilderness characteristics’ as a way to block access to lands in the West ... and is considering vast new national monument designations under the 1906 Antiquities Act to lock up resources.”

A much more somber rendering of the regulatory state of the United States can be found in the latest edition of “Ten Thousand Commandments,” published in April and written by Wayne Crews of the Competitive Enterprise Institute. Some of its devastating findings of the cost and compliance burden follow:

- The Federal Register stands at an all-time record-high 81,405 pages.
- In 2010, federal agencies issued 3,573 final rules....
- Alarming, proposed rules in the Federal Register have surged from 2,044 in 2009 to 2,439 in 2010, a jump of 19.3 percent.
- Of the 4,225 rules now in the regulatory pipeline, 224 are “economically significant” meaning they wield at least \$100 million in economic impact — this is an increase of 22 percent over 2009’s 184 rules.
- Given 2010’s government spending (outlays) of \$3.456 trillion, the regulatory “hidden tax” of



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\$1.75 trillion stands at an unprecedented 50.7 percent of the level of federal spending itself.

- Regulatory costs exceed all 2008 corporate pretax profits of \$1.463 trillion.
- Regulatory costs dwarf corporate income taxes of \$157 billion.
- Regulatory costs tower over the estimated 2010 individual income taxes of \$936 billion by 87 percent — nearly double the level.
- Regulatory costs of \$1.75 trillion absorb 11.9 percent of the U.S. gross domestic product (GDP), estimated at \$14.649 trillion in 2010.

The extremely modest review touted by the regulation czar does not even represent a speed bump for the diktats racing out of Washington. For instance, the relatively new financial legislation dubbed Dodd-Frank has already resulted in more than 3,500 new pages in the *Federal Register* and more are on the way. Congressman Tom Graves (R-Ga.), who was instrumental in pulling together a manufacturing summit earlier this year, has also observed that since ObamaCare became law, it has been transformed from a 2,000-page piece of legislation into more of 6,000 pages of regulations and *Federal Register* notices.

It will take more than “streamlining” to cure the ills of these mandates. And don’t expect the unelected regulators, who have had massive powers delegated to them by elected representatives, to police themselves adequately. In fact, the Environmental Protection Agency, for one, acknowledges that it doesn’t even think about the potential loss of jobs when it makes its analyses. It also considers itself, by law, to be prohibited from considering costs in coming up with its regulations for such major statutes as the Clean Air Act.

That certainly shows. Consider a new ozone standard being promulgated by the agency. According to the agency’s own analysis, up to 96 percent of all the counties in the country will fail to meet the requirements of the National Ambient Air Quality Standard (NAAQS). A spokesman for the National Petroleum Institute, in the *Oil and Gas Journal*, points out that the standard has been set so low that it approaches the natural background levels of ozone, to the point that even Yellowstone National Park would not meet the rules.

A job-killer, you say? Of course. But, as noted, EPA cares nothing about jobs, those belonging to others, that is. Nor about stifled investment and the unseen employment that is not created. A study by Manufacturers Alliance/MAPI determined that the EPA’s ozone proposal could result in 7.3 million jobs lost in this country by 2020 and an additional \$1 trillion in regulatory cost each year between 2020 and 2030. This is taking place even as the potentate of federal red tape proclaims that a modern “regulatory system must promote economic growth.”

Photo of Cass Sunstein: AP Images



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