



Reining in the Regulators: More than Executive Orders Needed

The Executive Order (EO) [issued by President Obama](#) last week, “Identifying and Reducing Regulatory Burdens,” made it sound as if the reality of crushing regulatory burdens was at long last being recognized as part of the cause of the sluggish economy. Said the order:



Regulations play an indispensable role in protecting public health, welfare, safety, and our environment, but they can also impose significant burdens and costs. During challenging economic times, we should be especially careful not to impose unjustified regulatory requirements.

His order then went on to state that “our regulatory system must measure, and seek to improve, the actual results of regulatory requirements... [through] periodic review of existing significant regulations.” Since his previous EO issued in January 2011 agencies have already identified over five hundred “initiatives” that are supposed to save “billions of dollars in regulatory costs and tens of millions of hours in annual paperwork burdens.”

Cass Sunstein, the head of one of those regulatory agencies, the Office of Information and Regulatory Affairs — the “regulator of the regulators” so to speak — touted some of the burdens that allegedly have already been lifted from the backs of those in the private economy:

- The Department of Health and Human Services (HHS) is removing some rules imposed on hospitals and other healthcare providers, “saving more than \$5 billion over the next five years”;
- The Department of Transportation (DOT) is eliminating some of its regulation of the railroad industry, “saving up to \$335 million in the near future”;
- The DOT is also extending the date for compliance that it has imposed on states, cities and municipalities to change their street signs to comply with federal rules, which is “saving millions,”; and
- The Environmental Protection Agency (EPA) is eliminating the obligation it has imposed on the states to require air pollution vapor recovery systems at local gas stations now that it has imposed tighter pollution control standards on automobile manufacturers.

In all, then, Sunstein trumpets that these changes “will be saving more than \$10 billion over the next five years.”

Not only is this “chump change” in light of the costs of regulatory compliance estimated by another government agency, the Small Business Administration, to be \$1 trillion annually, the President’s Executive Order fails to include rules promulgated by “independent” agencies such as the newly



Written by [Bob Adelman](#) on May 22, 2012

created Consumer Financial Protection Bureau (CFPB) just initiated by the Dodd-Frank Act. And the dollar cost of compliance is dwarfed by the millions of man-hours required to stay abreast of them as they are issued in a rising flood from Washington.

And any estimates of cost savings required by the order are likely to be overestimated as well. Richard Belzer, President of Regulatory Checkbook, [wrote in the Wall Street Journal](#) that “they are highly susceptible to underestimation because agencies always want to ‘frame’ regulations to maximize their apparent desirability.”

In addition, some regulations aren’t even counted. The U.S. Patent and Trademark Office misclassified a multitude of multi-billion regulations over the last six years, thus avoiding any such regulatory oversight by the Office of Management and Budget, the agency in charge of measuring the costs of regulations.

Suggestions to rein in the regulations spewing from the federal government and its agencies come in the form of “nibbling around the edges” of the problem rather than attacking it at its core. Wayne Crews, [writing for the Open Market blog](#) of the Competitive Enterprise Institute, made several such suggestions as to how Congress might start the process:

- Set up a commission to study the problem
- Institute a “freeze” on all regulations for a while
- Hold some hearings
- Measure regulatory costs more effectively
- Exempt small business from some regulations
- Expand the Small Business Administration’s review of regulations
- Make regulations subject to a “sunset” date
- Reject “excessive” delegation of legislative authority from Congress to those agencies
- Require the agencies to provide annual “transparent” summaries of all the mischief they are up to

Skeptics familiar with how Washington really works are likely to brush off suggestions like these as simply a waste of time and ink. But buried in the fine print of each of the executive orders, left unnoticed by Crews, is the answer, to wit:

(c) This order shall be implemented consistent with applicable law and *subject to the availability of appropriations* [Emphasis added]

Congress, which created the monstrous regulatory state, still has the power to shut it down. The best, quickest, and most effective way to do so is to starve the agencies by failing to renew their requests for operating funds. Then the entire question of how to rein in their extra-legal activities becomes moot.

Photo: President Barack Obama signs the health care reform bill in the East Room of the White House in Washington, March 23, 2010.: AP Images



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