



Written by [Michael Tennant](#) on January 11, 2016

## Obama's 4,000-Regulation Dash

President Barack Obama may have only one year left in the White House and face a Congress controlled by Republicans, but that doesn't mean he's throwing in the towel on his agenda. On the contrary, reported Politico's [Timothy Noah](#): "Nearly 4,000 regulations are squirming their way through the federal bureaucracy in the last year of Barack Obama's presidency — many costing industry more than \$100 million — in a mad dash by the White House to push through government actions affecting everything from furnaces to gun sales to Guantánamo."



That the president would choose to achieve his objectives via bureaucracy hardly comes as a surprise after his first seven years in office.

"The regulatory state has grown under this administration seemingly without regard to the costs, practicality, or even legality, of rules pushed through by federal agencies," Chamber of Commerce president Thomas Donohue told Noah. "The president's hurry-up approach of executive orders and rushed rulemakings is no way to govern a representative democracy."

That is particularly true when the government of that representative democracy (or, more accurately, republic) is supposed to operate under a constitution that vests "all legislative powers" in Congress, leaving the president merely to "take care that the laws be faithfully executed."

Obama, however, has never been much deterred by the constraints imposed by that document and just weeks ago reiterated his intention to evade it to the extent he deems necessary to accomplish his "unfinished business."

"I plan on doing everything I can with every minute of every day that I have left as president to deliver on behalf of the American people," Obama [said](#) December 18.

The president has already demonstrated how he plans to achieve his objectives, and it's not by working with Congress to pass legislation. Instead, as Noah observed, "Obama's executive agencies are intent on pushing through the president's priorities without congressional interference." Just a few days ago, Obama [announced](#) a series of directives that, among other things, would have the Bureau of Alcohol, Tobacco, Firearms, and Explosives require practically anyone selling guns to obtain a federal license and conduct background checks on all prospective buyers.

Congress could try to thwart Obama's regulatory advance under the 1996 Congressional Review Act. That law allows Congress to overturn a new regulation within 60 days of its enactment by passing a joint resolution under an expedited process. But since the president can still veto that resolution, any attempts to stop Obama's agenda are likely to fail as long as he is in office.

On the other hand, a disapproval resolution passed after January 20, 2017, would stand a much greater chance of success, particularly if the next occupant of the Oval Office isn't a Democrat. This is where the urgency for Obama comes in. The 60-day period for passing a resolution consists of "legislative



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days, which typically come only three per week, in weeks numbering far fewer than 52,” explained Noah, meaning that any regulations enacted after mid-May could be overturned next year.

Noah highlighted those regulations that he considers Obama’s “better bets,” a list that begins with the aforementioned gun rules but extends to numerous facets of American life.

The Food and Drug Administration (FDA) has plans to mandate changes to food labeling and even to expand its own jurisdiction to cover e-cigarettes. The food-labeling rule is likely to require manufacturers to tell consumers how much sugar is in their products, to change serving sizes, and to make calorie-count fonts larger. The FDA estimates this will cost the food industry \$2.3 billion. In addition, by deciding it can regulate e-cigarettes, the agency can then promulgate a rule banning e-cigarette use by anyone under age 18. “Depending on the final composition of the rule, which may regulate other new tobacco products as well, its cost over 20 years could be anywhere from \$20 million to \$810 million, which might well put e-cigarettes out of business,” penned Noah.

“That’s clearly the intent,” remarked Hot Air’s [Ed Morrissey](#). “However, extension of authority in a federal agency should come from Congress, not the executive branch, and especially not the agency itself.”

The Labor Department is also getting into the act with a regulation that Noah describes as “requiring brokers who offer advice about retirement investments to ... consider only the best interests of the investor.” The rule would do this by preventing brokers from working on a commission basis, which the administration claims costs consumers \$17 billion annually because advisors steer investors toward investments that will generate big commissions.

The financial industry, quite naturally, opposes the regulation. One of its primary house organs, the [Wall Street Journal](#), said Labor Secretary Tom Perez “is rushing through a new regulation for financial advisers that isn’t needed, that he lacks clear legal authority to impose, and that will hurt the very people it is supposed to help.” That’s about par for the course for the Obama administration.

The rule would harm small investors by forcing them to pay higher fees for investment advice or simply making it impossible for them to obtain such advice at all. Furthermore, the Securities and Exchange Commission, not the Labor Department, is authorized to set fiduciary standards for brokers and investment advisers, though Perez claims he can do so under the Employee Retirement Income Security Act (ERISA). “Never mind that the expansive definition of fiduciary he seeks is at odds with the language of Erisa,” quipped the *Journal*.

“The Energy Department,” according to Noah, “is working on dozens of new or updated efficiency standards for computers, gas furnaces, dishwashers, pool heaters, air conditioners, walk-in coolers and freezers, vending machines, ceiling fans, fluorescent lamp ballast, boilers, ovens, and hearths.” These are supposed to reduce the dreaded carbon emissions and, *mirabile dictu*, also save consumers money over the long run even as they drive up the cost of consumer products. In reality, they will harm industry and consumers alike and probably won’t help the environment. The [dishwasher rule](#), for example, could result in costlier dishwashers that don’t do the job on the first try, forcing consumers to use additional water and energy. Its alleged savings are likely never to be realized, the dishwasher industry is expected to lose over a third of its value, and the rule’s cost is forecast to exceed its environmental benefits. The furnace rules, meanwhile, will cost industry \$741 million a year, according to the [American Action Forum](#), which [found](#) that Obama Energy Department regulations have already cost industry over \$155 billion, having “a profound impact on manufacturers’ employment and



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consumer prices.”

There are regulations from the Education Department (concerning teacher-preparation programs) and the Occupational Safety and Health Administration (reducing the permissible exposure limit to crystalline silica).

Finally, there’s the question of closing the Guantánamo Bay prison camp, which Obama ordered closed on his first day in office but has — he claims — been unable to effect because of congressional hurdles. Obama says he plans to send Congress draft legislation to shutter the prison and transfer the prisoners elsewhere but will consider his other options (i.e., executive orders) should lawmakers refuse to accede to his demands.

Obama and his agents, therefore, have a busy few months ahead of them. They will be aided in their attempts to impose his agenda by fiat by a compliant press that will largely be focused on the presidential race. But, Noah warns, “industry lawsuits and congressional hearings will surely slow the Obama regulation freight train.” Better still, for the sake of the Constitution and liberty, let’s hope that train is derailed.

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