



POLICY SPOTLIGHT

Regulatory Accumulation: The Problem and Solutions

PATRICK MCLAUGHLIN | SEPTEMBER 2017

PROBLEM

Regulations are created one by one. By design, each new regulation contains obligations or prohibitions—regulatory restrictions that policymakers hope will deliver benefits that justify their costs. Over time, however, the buildup of more and more regulatory restrictions distorts and deters the business investments that drive innovation and economic growth.¹ These dynamic effects of regulatory accumulation can hinder economic growth considerably, on top of the many other consequences often associated with regulations, such as higher unemployment, higher prices, and lower wages, particularly for low-income households.²

Recently, the Trump administration ordered federal executive agencies to identify two regulations for modification or repeal for every new regulation proposed.³ However, this executive order does not apply to independent agencies, and it could always be rescinded by a future president. Unfortunately, the problem of regulatory accumulation remains unsolved for now.

SOLUTIONS

Mercatus Center scholars have identified several solutions to the problem of regulatory accumulation.

LEGISLATIVE IMPACT ACCOUNTING (LIA)⁴

LIA would send feedback about the economic effects of regulations—and, by extension, their authorizing legislation—back to Congress once those effects are better known. LIA would also require consideration of all economic costs—not just budgetary outlays—of proposed legislation. This information would be formally incorporated into the federal budget process,

allowing Congress to see and act upon the long-term effects of regulatory accumulation on the economy.

REGULATORY BUDGETING⁵

Regulatory budgeting introduces dynamics into the rulemaking process that would motivate regulatory agencies to identify and correct any existing errors, such as ineffective, obsolete, or duplicative rules. The recent Trump executive order is a form of a regulatory budget, but more can be done: the absence of retrospective analysis means that errors can occur. These

errors then become ingrained in the regulatory code and become the foundation for subsequent regulations.

REGULATORY REVIEW COMMISSION⁶

The creation of the Defense Base Realignment and Closure (BRAC) Commission has resulted in the removal of unnecessary military bases. The Commission expedited the legislative process by limiting Congress's opportunities to disapprove of base closures. Before, individual members of Congress could effectively halt the process; but with the BRAC Commission, only a joint congressional resolution at the final stage could prevent a base from being closed. Likewise, a regulatory review commission could be designed to confront skewed incentives, vague criteria, and the influence of special interests.

HARD CAPS ON REGULATORY GROWTH⁷

Repealing at least one regulation for every new regulation is a policy that has had success in British Columbia and was recently adopted by Canada as a whole. As of February 2016, the rule had achieved a net reduction of 20 regulations in Canada, saving business 344,000 hours dealing with red tape and \$24 million.⁸ While small, this reduction indicates that a hard cap on regulatory growth is important. British Columbia experienced even greater reduction, by nearly 50 percent in total.⁹

NOTES

1. Patrick A. McLaughlin, Nita Ghei, and Michael Wilt, "Regulatory Accumulation and Its Costs," *Economic Perspectives*, Mercatus Center at George Mason University, May 4, 2016.
2. Bentley Coffey, Patrick A. McLaughlin, and Pietro Peretto, "The Cumulative Cost of Regulations" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016); Keith Hall, "The Employment Costs of Regulation"

(Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2013); Dustin Chamgers and Courtney A. Collins, "How Do Federal Regulations Affect Consumer Prices?" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016); Steven Horwitz, "Breaking Down the Barriers: Three Ways State and Local Governments Can Improve the Lives of the Poor" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2015); Diana Thomas, "Regressive Effects of Regulation" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2012).

3. Exec. Order No. 13771, 82 Fed. Reg. 9339 (February 3, 2017).
4. Jason J. Fichtner and Patrick A. McLaughlin, "Legislative Impact Accounting: Rethinking How to Account for Policies' Economic Costs in the Federal Budget Process" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2015).
5. Patrick A. McLaughlin, "Regulatory Budgeting as a Solution to the Accumulation of Regulatory Errors" (Testimony before the House Committee on the Budget, Mercatus Center at George Mason University, Arlington, VA, July 7, 2016).
6. Patrick A. McLaughlin and Richard Williams, "The Consequences of Regulatory Accumulation and a Proposed Solution" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2014).
7. Laura Jones, "Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2015).
8. Government of Canada, "The 2014-14 Scorecard Report on Reducing Regulatory Red Tape," accessed September 15, 2017, <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/2014-2015-scorecard-report.html>.
9. James Broughel, "Can the United States Replicate the British Columbia Growth Model?" Mercatus Center at George Mason University, May 25, 2017.

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