Regulatory Reform in the Trump Administration

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Federal Regulations Since 1976

Since 1976 federal agencies have issued over 180,000 new regulations

Figure 1. Cumulative Federal Rules Since 1976

Source: Federal Register

Source: U.S. Chamber’s brochure, Charting Federal Costs and Benefits
Significant Final Rules: 2000-2013

Source: U.S. Chamber’s brochure, Charting Federal Costs and Benefits
Total Pages, Code of Federal Regulations (1950 - 2016)

Pages Published

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What is Red Tape?

• Red Tape = Regulations that impose large paperwork burdens

• Red tape slows economic growth because compliance with these requirements takes away limited labor resources that play a critical role in the process.
The Information Collection Request Process is a set of documents that describes reporting, record keeping, survey, or other information collection requirements imposed on the public by a federal agency.

The Paperwork Reduction Act stipulates that every federal agency must obtain approval from the Office of Management and Budget (OMB) before collecting the same or similar information from 10 or more members of the public.
What is covered in an ICR?

- A description of the information to be collected
- The reason the information is needed
- An estimate of the time and cost for the public to answer the request.

Examples:

- Surveys
- Permit Applications
- Questionnaires
- Standardized Data Collection
- Reports
ICR = Red Tape*

- 9,439 Information Collection Programs
- 108,937,953,131 annual responses
- 11,607,130,553 annual hours of burden
  - 9 hours and 23 minutes per response
- $117,641,790,067 annual cost
  - $10.14 per hour
- 35 hours per year per US citizen to complete
  - Just includes federal not state or local regulations
DOL Red Tape

- 169 Million hours to complete paperwork
- Top 2 issues out of the Top 5 in terms of time spent to comply come from OSHA
  - Silica – 12.1 million hours
  - Hazard Communication – 10.7 million hours
Length of Rulemaking Process

• Average time it takes to develop a new rule...
  • 8 years

• Average time it takes OSHA to develop a new rule...
  • 9 years
Sub regulatory Problems w/Obama Administration

- Sub regulatory actions—substantive changes without transparency, involvement, or accountability
  - Guidance—interpretations such as union walk around rights
  - Penalty policies—increased penalties, longer look-back period for repeat violations
  - New compliance directives—incentive programs, combustible dust under GHS
  - National Emphasis Programs—recordkeeping, combustible dust, nursing homes (read: ergo)
One of President Trump’s top priorities, in service of his overall goal of jump-starting economic growth, is to limit, unwind, repeal, or delay a host of regulations, executive orders, agency guidance, and presidential memoranda promulgated by the Obama administration on reg reform.
Regulatory Overhaul in the Trump Administration

• Major priority for Administration and Congress.
  • Congressional Republicans have introduced legislation to change the regulatory process.
  • Executive Orders from the Administration on reducing regulations and reforming the government
• NGFA is working with other trade groups to fully support an overhaul of the rulemaking process in order to put less of a burden on the industry.
  • We have forwarded list of rules to be repealed, replaced or changed
Cutting Burdensome Regulations

• **Regulatory Freeze**
  
  o On January 20, 2017, the President’s Chief of Staff issued a memorandum to all agencies, directing them to review all rules not signed by the Obama Administration before taking further action.

• **Controlling Costs and Eliminating Unnecessary Regulations**
  
  o On January 30, 2017, the President signed Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” This Executive Order represents a fundamental change in the regulatory state.
  
  o It requires Federal agencies to eliminate at least two existing regulations for each new regulation they issue. It also requires agencies to ensure that for 2017, the total incremental cost of all new regulations be no greater than $0.
Cutting Burdensome Regulations

- **Enforcing the Regulatory Reform Agenda**
  - Executive Order (EO) 13777 establishes within each agency a Regulatory Reform Officer and a Regulatory Reform Task Force to carry out the President’s regulatory reform priorities.
  
  - These new teams will work hard to identify regulations that eliminate jobs or inhibit job creation; are outdated, unnecessary, or ineffective; or impose costs that exceed benefits.
March 13, 2017 – Comprehensive Plan for Reorganizing the Executive Branch

This EO proposes that the Director of the Office of Management and Budget propose a plan to reorganize governmental functions and eliminate unnecessary agencies components of agencies, and agency programs.

April 12, 2017 – Comprehensive Plan for Reforming the Federal Government and Reducing the Workforce

This memorandum provides agencies guidance on fulfilling the requirements of the Hiring Freeze and Reorganization EO while aligning those initiatives with the Federal budget and performance planning processes.
Regulatory Accountability Act of 2017

- H.R. 5 passed the House of Representatives in January.
- S. 591 has been introduced in the Senate and reported out of the Government Affairs and Homeland Security Committee. Only 1 Democratic supporter
- Both bills ensure that there is greater transparency, and that agencies use sound scientific and technical data to justify new rules.
The law empowers Congress to review, by means of an expedited legislative process, new federal regulations issued by government agencies and, by passage of a joint resolution, to overrule a regulation.

Trump signed CRA resolutions to repeal 13 regulations. AAF projects the CRA bills will eliminate 4.3 million hours of paperwork and $3.7 billion in compliance costs. Industry groups estimate cutting these regulations could save up to $36.2 billion in compliance costs.
On April 3, President Trump signed H.J. Res 83 completing the Congressional Review Act process to invalidate the OSHA “Volks” regulation that would have expanded the statute of limitations for OSHA to issue citations for recordkeeping violations from the 6 months specified in the statute to the 5 years during which employers are required to keep and maintain records.
Unified Regulatory Agenda

- Agencies withdrew 469 actions proposed in the Fall 2016 Agenda;
- Agencies reconsidered 391 active actions by reclassifying them as long-term (282) and inactive (109), allowing for further careful review;
- Economically significant regulations fell to 58, or about 50 percent less than Fall 2016;
- For the first time, agencies will post and make public their list of "inactive" rules—providing notice to the public of regulations still being reviewed or considered.

National Grain and Feed Association
In 2017 Department of Labor includes a total of 13 regulatory entries for OSHA specific actions while the May 2016 agenda had 32 regulatory entries for OSHA specific actions.

16 agency actions have been removed completely from the current agenda, including Combustible Dust. These initiatives have been classified as “completed actions” and for each initiative OSHA states.

The removal of these initiatives from the agenda aligns with the Trump Administration’s goal of effective and less burdensome regulation.
DOL Regulatory Reform

- Being led by Office of Policy
  - 11 members on task group
- Cost savings is cumulative for all agencies, not just one.
- Plan targeted outreach to stakeholders for input based on specific issue.
  - No plans for stakeholder meeting
  - Specifically looking for input on jobs impact
  - Case by case on if a formal Federal Register notice will be published.
    - EPA received over 200,000 comments from stakeholders following published request in Federal Register
- NGFA will submit recommendations on specific issues for the DOL to consider.
What is Taking So Long?

• Political Appointments
  • 4,000 overall
  • 1,200 confirmed by Senate

• Career staff are in “Acting” roles until political staff is appointed or confirmed.

• Career staff keep the “train running” but are not responsible for implementing the Administration’s agenda.
NGFA and OSHA Alliance

• NGFA is working with OSHA to create a joint agreement focusing on outreach and communication.

• Goal is to enhance communication between NGFA-members, State/Regional affiliates and Regional/Area offices.
  • Accomplished through speaking engagements, facility tours, Web pages and newsletters.
  • Will renew Alliance after 5 years and will then focus on substantive issues/projects.
Top Grain Handling Issues for 2017

• Regulations
  • Injury and Illness Electronic Reporting
    • Proposal to delay implementation until Dec. 1
  • Hazard Communication
  • Regional/Local Emphasis Programs
  • Confined Space/Boot Pits
• Walking Working Surfaces
  • Rolling Stock Fall Protection
  • Combustible Dust
Unpredictable Ride Ahead – Hang On!
Thank You

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