

Insight

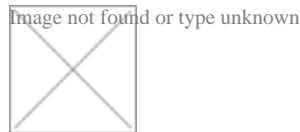


Analyzing the White House Report on Costs and Benefits of Regulation

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Recently, the White House released its long-awaited, but [obscure report](#) from the Office of Information and Regulatory Affairs (OIRA) outlining the “Benefits and Costs of Federal Regulation.”

The White House report confirmed that FY 2012 was the costliest year ever for federal regulation. As the White House noted, “The highest benefit year was 2007 and the highest cost year was 2012.” Furthermore, FY 2013 actually imposed the fewest new burdens from the Obama Administration. Based on initial calculations from the American Action Forum (AAF), [we predicted](#) approximately \$2 billion in new annual costs and \$33 billion in benefits. This compares to OIRA’s range of \$2 to \$2.5 billion in costs and \$25 to \$67 billion in benefits, well within AAF’s ranges. However, if the OIRA report included more than just seven regulations, the actual cost figure would be \$7.2 billion, or roughly three times the “official” figure.



As the chart above confirms, 2012 dwarfs all other years from a cost perspective, but what are the reasons for the drop? Reports indicate that politics might be at play. According to [numerous outlets](#), political influences likely delayed several notable regulations, including a rule to reduce the sulfur content in gasoline ([Tier 3 standards](#)). The first quarter of FY 2013 occurred during the election season in 2012, so there might have been an impetus to delay a few controversial rules. For example, had the administration finalized Tier 3 standards during 2013, it alone would have imposed \$1.5 billion in annual burdens.

Yet another caveat on the low \$2 billion cost numbers for 2013: all of the White House figures are in 2001 dollars. For example, the \$19.5 billion in annualized costs for 2012 is actually \$25.7 billion in today’s dollars ([including all rules](#) yields \$38.6 billion in 2014 dollars). Thus, in addition to the [\\$27 billion](#) in new taxes for 2013, regulatory burdens added \$25.7 billion in costs, for a total federal imposition of at least \$52.7 billion on the economy. However, as with regulation in general, the “Fiscal Cliff” tax deal consumed all of the political oxygen, leaving historic regulatory costs largely unreported.

The \$2 billion figure for 2013 might appear low, but it does not represent all regulatory costs and benefits for the fiscal year, and even the administration acknowledges this reality. The report on regulation merely examines all major rules that monetize both costs and benefits. For example, an expensive Dodd-Frank rule or a health care regulation that lacks benefit data will not be tallied in the annual figures.

AAF [predicted](#) the administration would likely analyze just nine major rules, or two-tenths of one percent of all

federal rules published during the fiscal year (more than 3,300 final rules). The official report outlined seven. Regardless, this is the fewest number of rules since the 2006 report examined just six. The previous low for the Obama Administration was 12 rules from the 2011 report. Below are the seven rules OIRA highlighted for FY 2013 (costs in 2001 dollars):

<u>Regulation</u>	<u>Costs (in millions)</u>	<u>Benefits (in millions)</u>
Boiler MACT	\$1,336	\$20,887
Standards for Particulate Matter (Soot)	\$286	\$6,702
Efficiency Standards for Transformers	\$212	\$1,049
Gluten-Free Labeling of Foods	\$5	\$86
Efficiency Standards for Microwaves	\$46	\$283
Pilot Certification Requirements	\$101	\$19
Air Standards for Combustion Engines	\$400	\$1,057
Totals	\$2,386	\$30,083

Obviously, OIRA’s tally is a small fraction of total federal rulemaking, but the administration will claim that the report captures a “vast majority” of costs and benefits. For benefits, this might be true, as few rules monetize benefits, but for costs, the reported total will be just a slice of total burdens. OIRA’s report never tallies all costs and benefits reported in the Federal Register, just the small portion of major rules that monetize both costs and benefits.

AAF examined every final rule published in FY 2013 and found \$9.1 billion in annualized costs (\$7.2 billion in 2001 dollars) and \$40 billion in annualized benefits (\$33.5 billion in 2001 dollars). Thus, OIRA underreports costs by more than 300 percent, compared to a benefit figure approximately ten percent from the actual total. Although OIRA will report benefits that are the “vast majority” of the published figure, the report’s methodology will exclude billions of dollars in costs. This week’s report officially stated approximately \$2 billion in costs, but the actual results are \$7.2 billion, a significant difference.

RESPONDING TO COMMENTS

OIRA also spent considerable time in its final 2013 report responding to comments, including several replies to AAF. In one example, OIRA clarified its methodology for rules that it includes in the report. Now, the report

clearly states it will highlight rules that are [major, economically significant](#), and that impose unfunded mandates on states or private entities. However, OIRA continued to exclude a standard for dishwashers that the Department of Energy labeled “[economically significant](#).” Thus, it appears OIRA ignored its methodology, or the regulation incorrectly determined “economically significant” status.

In addition, AAF recommended that OIRA include an expensive “conflict minerals” rule that could cost \$4 billion annually, which the White House originally [omitted](#). In its response, OIRA added the rule to [Table 1-10](#).

AAF also recommended inclusion of nutrition labeling and food safety rules in the report. OIRA responded, “Because economic significance is determined by an impact threshold, rather than a cost threshold, these rules should be categorized as economically significant—and thus included in the report as ‘major.’ We have edited the relevant tables accordingly.”

Finally, AAF also [recommended](#) an updated dollar year for monetized costs and benefits. For example, EPA could issue a rule in 2010 dollars, only to have OIRA convert the figure to 2001 dollars; the public would then have to convert 2001 dollars to current year values. For an updated dollar year, OIRA has included 2001 and 2010-dollar years in its draft 2014 report. As the 2014 [report noted](#), “This year, we are reporting most of the numbers in this chapter in both 2010 and 2001 dollars, in order to provide estimates that are close to current year dollars.”

CONCLUSION

The final figures in any year depend on the pace of new rulemakings, which is [aggressive](#) so far in 2014. Whatever the pace of new rulemaking, total burdens from the past two years have eclipsed \$45 billion in today’s dollars (\$38.6 billion from 2012 and \$7.2 billion from 2013). This past year’s total might have been a low, but that was likely an aberration based on a political calculus, rather than a genuine attempt to reduce regulatory growth.