Insight

Deregulation a Major Player in House Appropriation Bills

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According to the American Action Forum (AAF), recent House appropriations bills would address more than $19 billion in past regulatory costs and eliminate 10.4 million paperwork burden hours.

Much has been written on how difficult it will be to repeal past rules from the Obama Administration. The regulatory process will take one to two years and then courts will likely review the substance and procedure for each deregulatory action. For certain rules, the process could take four to five years. However, as Congress has done in the past, it can limit the implementation of regulation via "appropriations riders" and even repeal certain rules directly. This practice was modest during the Obama Administration, when Congress often compromised on limited delays in implementation.

The suite of appropriations bills released this week goes further, curtailing more than $19 billion in total regulatory costs and eliminating 10.4 million hours of paperwork, the equivalent of eliminating all regulations from 2006 and freeing 5,200 employees from paperwork compliance.

The highlights of the appropriations bills include a repeal of the Dodd-Frank financial reform bill's Volcker rule, which originally estimated $4.3 billion in costs and 2.3 million new paperwork burden hours. Although many of the costs have already been imposed (sunk costs), there is little doubt full repeal of the rule could provide regulatory relief. Also contained in the financial services appropriations bill is a provision to limit a final "Blade-Contact" rule from the Consumer Product Safety Commission. Based on the language from the proposed rule, this could save $2.5 billion. Finally, the financial services bill also contains language repealing the individual health care mandate, which imposed 7.5 million paperwork burden hours. Although this figure was never monetized, assuming a wage rate of $33.77 per hour, the annual paperwork costs of the mandate are $253 million.

The energy and water bill also contains a notable rider, with curious language according to E&E News. Rather than directly repeal the "Waters of the United States" rule, the language in the House bill authorizes withdrawal, "without regard to any provision of statute or regulation that establishes a requirement for such withdrawal." In other words, the regulatory process would be greatly expedited if this language passed both chambers of Congress and President Trump signed the legislation. Based on initial estimates, this would reduce costs by $462 million. If successful, expect this practice to expand in subsequent legislation.

Finally, the agricultural appropriations bill contains several riders. For example, the legislation would largely repeal the Food and Drug Administration's ban of trans fats, which initially estimated $11 billion in long-term costs to eliminate them from the food supply. The bill would also greatly limit implementation of the cigar and vaping "deeming" final rule that the agency implemented last year. Original costs for that measure were $1.1 billion and 1.6 million paperwork hours, although it's unclear if the legislation will eliminate all of these burdens.

Conclusion

For those who thought the regulatory reform debate was limited to the executive branch and the administration's one-in, two-out executive order, Congress is proving it has plenty of power to curtail past rules. It can do so in a way that is faster than the regulatory process, and in some instances, far more durable than repeal through the executive branch. The measures outlined here could repeal more than $19 billion in costs and eliminate 10.4 million hours of paperwork. If these riders successfully make it through the process, expect this practice to continue as other legacy regulations are addressed through the legislative branch.

The regulatory summaries of each appropriations bill are below.

Financial Services:

- Repeal of Volcker Rule: $4.3 billion and 2.3 million hours
- Limiting Implementation of Blade-Contact Rule: $2.5 billion
- Repeal Individual Mandate: 5 million paperwork hours
- Prohibits SEC from requiring companies to disclose political spending
- Requires OMB to report on costs of Dodd-Frank

Energy and Water:

- Withdrawing "Waters of the United States" Rule: $462 million
- Prohibits regulators from restricting firearms on Army Corps lands

Agriculture:

- Limiting "Trans Fat Ban:" $11 billion
- Limiting "Cigar and Vaping" Rule: $1.1 billion and 1.6 million paperwork hours
- Allows flexibility for schools implementing whole grain school lunch standards
- Prevents further implementation of school lunch sodium standards
- Allows flexibility for schools serving low-fat flavored milk