Insight

Deregulation under Obama and Trump

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As deregulation moves into its more formal stages under the Trump Administration, there are plenty of questions about what "deregulation" means in practice. To some, it's "hampering the government's ability to ensure we have clean air, drinkable water, and safe food." While this language is hyperbole, it is instructive to look at the specifics of deregulation throughout recent history to determine if regulators can reduce costs without harming critical environmental and safety provisions. Based on an American Action Forum (AAF) review of deregulatory actions from the Obama and Trump administrations, many of the cost savings result in fewer paperwork requirements, delayed implementation, or minor revisions, not full-scale repeal of protections.

Deregulation under President Obama

As AAF noted many times, on net the Obama Administration imposed more regulations that increased burdens, than rules that decreased costs. However, that did not mean there were no measures aimed at reducing regulatory burdens and eliminating needless paperwork hours. It might surprise supporters and detractors of the previous administration that President Obama actually issued 101 rules that reduced compliance costs. On an annualized basis, this cut $7.9 billion in costs, with $3.9 billion in accompanying benefits, and 124 million fewer paperwork burden hours. For perspective on the last stat, that's the equivalent of freeing more than 62,000 employees from the burden of full-time paperwork compliance (2,000 hours a year). Yet, those $7.9 billion in cost savings were largely undone with just one rule, the "Clean Power Plan."

Regardless of the net effect, President Obama did reduce regulatory burdens and he was able to do so in a way that didn't result in dirtier air and water. Below are the ten largest deregulatory actions from the Obama Administration (on an annual basis).

Largest Cost-Cutting Rules from Obama Administration

Regulation	Annual Cost	Paperwork Hours
Removal of Country of Origin Labeling	-$1.8 billion	
Driver-Vehicle Inspection Report (DVIR)	-$1.7 billion	-46,669,294
Reform of Hospital and Critical Access Participation	-$940 million	-5,150,505
Promoting Efficiency and Burden Reduction	-$640 million	

Electronic Logging Devices	-$605 million	-21,373,653
SNAP Eligibility and Certification	-$286 million	-40,531,435
Countermeasure for Milk	-$146 million	
Ninety-Day Waiting Period Limitation	-$121 million	-3,249,569
Perkins Loan Amendments	-$109 million	-4,094,586
HHS: Reformed Regulatory Provisions	-$100 million	10,400
Totals	**-$6.4 billion**	**-121,058,642 hours**

The total, $6.4 billion in reductions, might seem pedestrian, but consider that total regulatory costs for all of 2005 were only $10 billion. From the regulations above, none stand out as overly regressive. The largest is ostensibly a labeling rule, directed by a 2016 appropriations bill. The DVIR measure merely removed the obligation of truck drivers to file so-called "no defect" reports. In other words, instead of reporting that nothing happened during a trip from Houston to Dallas, drivers would only report if there were an incident. The other measures above largely reduced paperwork, reporting, or induced minor technical amendments from previous regulations. The rules above will not likely lead to widespread health and safety concerns for America. If agencies thought they would have from the beginning of the rulemaking process, they likely would not have finalized the measures. It's also notable that these regulations were so generally agreeable, there was only one lawsuit filed to halt implementation.

Although the Obama Administration issued 18 "major" deregulatory actions during its eight years, it also imposed 118 major rules alone in 2016. However, there is no evidence that these cost-cutting measures led to significant environmental or safety concerns. The question now is whether President Trump can replicate and build on these small victories from the previous administration.

Deregulation under President Trump

Thus far, the vast majority of cost-cutting measures during the past five months have come courtesy of Congressional Review Act (CRA) resolutions of disapproval. Combined, the repeal of 14 rules eliminated $3.7 billion in total costs, $1.1 billion in annual burdens, and 4.2 million paperwork burden hours.

There have been other deregulatory actions, but just three final rules that have reduced costs. They are presented below in the table.

Final Cost-Cutting Measures from Trump Administration

Regulation	Annual Cost	Paperwork Hours
Fiduciary Delay	-$123 million	
Delay: Menu Labeling Rules	-$8 million	

Revised Lodging Regulations	-$1.9 million	
Total	**$132.9 million**	

The Fiduciary delay was temporary and the rule actually went into effect in June. According to Secretary of Labor Alexander Acosta, the Administrative Procedure Act (APA), which governs the federal rulemaking process, compelled the decision to move forward with preliminary implementation. Detractors of deregulation often seem to miss this point. Past laws created institutions that largely protect public health and safety, so regulation and deregulation must generally adhere to the intent of Congress and the spirit of the law. President Trump is not going to be able upend the Clean Air Act, and to date, there is no evidence of his desire to do so.

As former Office of Information and Regulatory Affairs (OIRA) official Marcus Peacock remarked in April, most of the deregulatory actions will be on the margin of existing rules, removing paperwork and reporting requirements. From past experience under President Obama, and looking to international examples, this makes sense. It's far easier to tweak uncontroversial aspects of past rules than to push for full-scale repeal. The Trump Administration has signaled that it wants to repeal several notable rules from the Obama Administration via the APA, but that will require legitimate reasons from an agency, public notice and comment, and likely a thorough court review. If deregulation goes too far, the public and courts will be there as checks on the process, as they do routinely with regulatory actions.

Conclusion

As deregulation progresses during the Trump Administration, there will be plenty of rhetoric thrown around predicting calamity. If history is any guide, the vast majority of deregulatory actions will take place at the margin of existing rules, creating savings, while retaining critical health and safety protections. Presidents Carter, Reagan, Clinton, and to some extent President Obama, all managed to reduce regulatory costs without causing dirtier air and water. There is little reason President Trump cannot replicate and build on those earlier efforts.