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BACKGROUNDER

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Red Tape Rising: Six Years of Escalating Regulation Under Obama

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Abstract

The number and cost of government regulations continued to climb in 2014, intensifying Washington's control over the economy and Americans' lives. The addition of 27 new major rules pushed the tally for the Obama Administration's first six years to 184, with scores of other rules in the pipeline. The cost of just these 184 rules is estimated by regulators to be nearly $80 billion annually, although the actual cost of this massive expansion of the administrative state is obscured by the large number of rules for which costs have not been fully quantified. Absent substantial reform, economic growth and individual freedom will continue to suffer. This ninth installment in the ongoing series of "Red Tape Rising" reports measuring trends in rulemaking activity details the enormous regulatory costs under the Obama Administration.

The number and cost of government regulations continued to climb in 2014, intensifying Washington's control over the economy and Americans' lives. The addition of 27 new major rules[1] last year pushed the tally for the Obama Administration's first six years to 184, with scores of other rules in the pipeline. The cost of just these 184 rules is estimated by regulators to be nearly $80 billion annually, although the actual cost of this massive expansion of the administrative state is obscured by the large number of rules for which costs have not been fully quantified. Absent substantial reform, economic growth and individual freedom will continue to suffer.

President Barack Obama has repeatedly demonstrated his willingness to act by regulatory fiat instead of executing laws as passed by Congress. But regulatory overreach by the executive branch is only part of the problem. A great deal of the excessive regulation

KEY POINTS

- The number and cost of government regulations continued to climb in 2014, intensifying Washington's control over the economy and Americans' lives. Twenty-seven new major rules pushed the tally for the Obama Administration's first six years to 184, with scores of other rules in the pipeline.
- The cost of just these 184 rules is estimated by the regulators to be nearly $80 billion annually, although the actual cost of this massive expansion of the administrative state is obscured by the large number of rules for which costs have not been fully quantified.
- The White House, Congress, and federal agencies routinely ignore regulatory costs, exaggerate benefits, breach legislative and constitutional boundaries, and increasingly dictate lifestyle choices rather than focusing on public health and safety.
- Absent substantial reform, economic growth and individual freedom in America will continue to suffer.

This paper, in its entirety, can be found at **http://report.heritage.org/bg3015**

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in the past six years is the result of Congress granting broad powers to agencies through passage of vast and vaguely worded legislation. The misnamed Affordable Care Act and the Dodd–Frank financial-regulation law top the list.

Many more regulations are on the way, with another 126 economically significant rules on the Administration's agenda, such as directives to farmers for growing and harvesting fruits and vegetables; strict limits on credit access for service members; and, yet another redesign of light bulbs.

In many respects, the need for reform of the regulatory system has never been greater. The White House, Congress, and federal agencies routinely ignore regulatory costs, exaggerate benefits, and breach legislative and constitutional boundaries. They also increasingly dictate lifestyle choices rather than focusing on public health and safety.

Immediate reforms should include requiring legislation to undergo an analysis of regulatory impacts before a floor vote in Congress, and requiring every major regulation to obtain congressional approval before taking effect. Sunset deadlines should be set in law for all major rules, and independent agencies should be subject—as are executive branch agencies—to the White House regulatory review process.[2]

Measuring the Red Tape

The federal government does not officially track total regulatory costs, as it does with taxation and spending. Estimates of these costs from various independent sources range from hundreds of billions of dollars to over $2 trillion annually.[3] However, the number and cost of new regulations can be tracked, and both have grown relentlessly.

The most comprehensive source of data on new regulations is the Federal Rules Database maintained by the Government Accountability Office (GAO). According to this GAO database, federal regulators issued 2,400 new rules during the 2014 "presidential year" (January 21, 2014, to January 20, 2015). Of these, 77 were classified as "major."

Forty-eight of the 77 major rules were budgetary or administrative in nature, such as Medicare payment rates and hunting limits on migratory birds. A total of 27 were "prescriptive" regulations, meaning that they increase burdens on individual or private-sector activity. (Two others were "deregulatory," as explained below.) Altogether, during the six years of the Obama Administration, 184 prescriptive rules have been imposed. That compares to 76 such rules issued during the same period of the George W. Bush Administration.

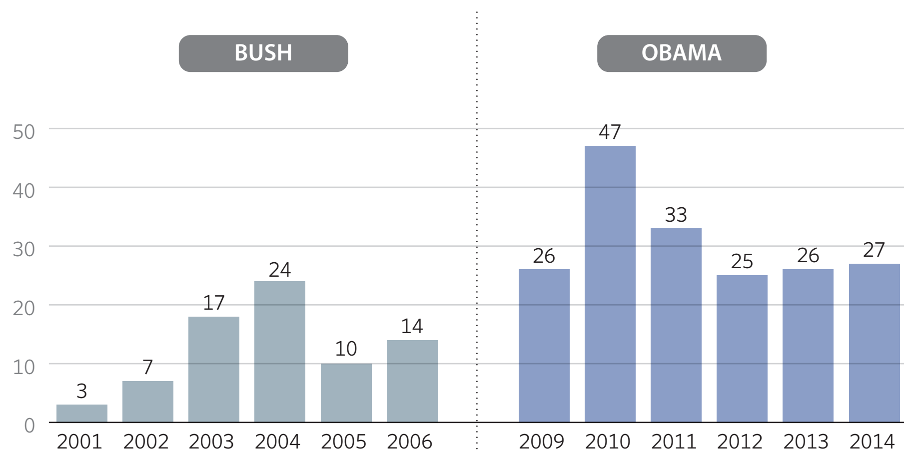
Regulators reported new annual costs of $7.6 billion for the 2014 prescriptive rules based on the limited number of analyses performed by the agencies.[4] This total cost is 15 percent less than the $8.9 billion in costs imposed during the sixth year of the Bush Administration. However, cost calculations were incomplete for 12 of the 27 Obama rules issued last year.

1. Regulations are deemed "major" or "economically significant" when they are expected to cost the economy $100 million or more annually.
2. This *Backgrounder* is the ninth in an ongoing series of reports measuring trends in regulatory activity. The previous reports are (1) James L. Gattuso, "Reining in the Regulators: How Does President Bush Measure Up?" Heritage Foundation *Backgrounder* No. 1801, September 28, 2004, http://www.heritage.org/Research/Regulation/bg1801.cfm; (2) Gattuso, "Red Tape Rising: Regulatory Trends in the Bush Years," Heritage Foundation *Backgrounder* No. 2116, March 25, 2008, http://www.heritage.org/research/regulation/bg2116.cfm; (3) Gattuso and Stephen A. Keen, "Red Tape Rising: Regulation in the Obama Era," Heritage Foundation *Backgrounder* No. 2394, updated April 8, 2010, http://www.heritage.org/Research/Reports/2010/03/Red-Tape-Rising-Regulation-in-the-Obama-Era; (4) Gattuso, Diane Katz, and Keen, "Red Tape Rising: Obama's Torrent of New Regulation," Heritage Foundation *Backgrounder* No. 2482, October 26, 2010, http://www.heritage.org/research/reports/2010/10/red-tape-rising-obamas-torrent-of-new-regulation; (5) Gattuso and Katz, "Red Tape Rising: A 2011 Mid-Year Report on Regulation," Heritage Foundation *Backgrounder* No. 2586, July 25, 2011, http://www.heritage.org/research/reports/2011/07/red-tape-rising-a-2011-mid-year-report; (6) Gattuso and Katz, "Red Tape Rising: Obama-Era Regulation at the Three-Year Mark," Heritage Foundation *Backgrounder* No. 2663, March 13, 2012, http://www.heritage.org/research/reports/2012/03/red-tape-rising-obama-era-regulation-at-the-three-year-mark; (7) Gattuso and Katz, "Red Tape Rising: Regulation in Obama's First Term," Heritage Foundation *Backgrounder* No. 2793, May 2, 2013, http://www.heritage.org/research/reports/2013/05/red-tape-rising-regulation-in-obamas-first-term; and (8) Gattuso and Katz, "Red Tape Rising: Five Years of Regulatory Expansion," Heritage Foundation *Backgrounder* No. 2895, March 26, 2014, http://www.heritage.org/research/reports/2014/03/red-tape-rising-five-years-of-regulatory-expansion.
3. W. Mark Crain and Nichol V. Crain, "The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business," National Association of Manufacturers, September 10, 2014, http://www.nam.org/Data-and-Reports/Cost-of-Federal-Regulations/Federal-Regulation-Full-Study.pdf (accessed April 24, 2015).
4. This figure is net of approximately $1.6 billion in savings from deregulatory actions in 2014.

CHART 1

Obama Issues Twice as Many Major New Rules as Bush

In its first six years, the Obama Administration imposed 184 major regulations on the private sector. That figure is more than twice the number imposed by the Bush Administration in its first six years.



Source: U.S. Government Accountability Office, GAO Federal Rules Database Search, http://www.gao.gov/legal/congressact/fedrule.html (accessed April 17, 2015). See Appendix A for the methodology.

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There was also $1.8 billion in reported one-time implementation costs for the 2014 rules, bringing the Administration's six-year total for such costs to about $17 billion.

Only two of the 2014 rules decreased regulatory burdens, bringing the Administration's six-year "deregulatory" total to just 17—despite a widely touted "retrospective review" initiative that President Obama claimed would take outdated rules off the books. This compares to four deregulatory actions during President Bush's sixth year, and his Administration's six-year total of 23.

Overall, the cost of new mandates and restrictions imposed by the Obama Administration now totals $78.9 billion annually. This is more than double the $30.7 billion in annual costs imposed at the same point in the George W. Bush Administration.[5]

These figures are consistent with other measures of a growing regulatory burden. For instance, according to economists Susan Dudley and Melinda Warren, spending on federal regulatory agencies has increased from $20.7 billion in 1990, and $50.9 billion in 2009, to more than $53.6 billion in 2014 (in constant 2009 dollars). Similarly, total staffing at regulatory agencies has grown nearly 6.6 percent since 2009.[6]

Dodd–Frank Dominates in 2014

Regulation of securities and the banking system dominated rulemaking in 2014, accounting for 13 of the 27 major rules issued during the Obama Administration's sixth year. The Securities and Exchange Commission (SEC) imposed the largest number of rules (seven), while the Federal Reserve, the Federal Deposit Insurance Corporation, and the Treasury Department's Office of the Comptroller of the Currency jointly promulgated five rules, and the Commodity Futures Trading Commission issued one.

Eight of the 13 financial regulations were prompted by Dodd–Frank. Indeed, virtually no aspect of the securities and banking system remains unaffected by the act, which encompassed 850 pages of legislative text, and has spawned 19,000 pages of regulations—so far.

But Dodd–Frank rulemaking remains incomplete. At the end of the fourth quarter of 2014, only 58.5 percent of the 395 required rulemakings were

5. For more information on the methodology used for this report, see Appendix A.

6. Susan Dudley and Melinda Warren, "Economic Forms of Regulation on the Rise: An Analysis of the U.S. Budget for Fiscal Years 2014 and 2015," George Washington University and Washington University in St. Louis, *Regulators' Budget* No. 36, July 2014, https://wc.wustl.edu/files/wc/imce/2015_regulators_budget_1.pdf (accessed April 24, 2015), and Susan Dudley and Melinda Warren, "Fiscal Stalemate Reflected in Regulators Budget," George Washington University and Washington University in St. Louis, *Regulators' Budget* No. 33, May 2011.

finalized, and 23 percent had yet to be proposed.[7] The full effects of the act have yet to be felt, but many of the regulations have led to higher banking costs and fewer investment options.

The act was largely intended to reduce the risk of a major bank failure, but the regulatory burden is crippling community banks (which played little role in the financial crisis). According to Harvard University researchers Marshall Lux and Robert Greene, small banks' share of U.S. commercial banking assets declined nearly twice as much since the second quarter of 2010—around the time of Dodd–Frank's passage—as occurred between 2006 and 2010.[8] Their share currently stands at just 22 percent, down from 41 percent in 1994.[9]

The increased consolidation rate is driven by regulatory economies of scale—larger banks are better suited to handle increased regulatory burdens than are smaller banks, causing the average costs of community banks to rise.[10] The decline in small bank assets spells trouble for their primary customer base—small business loans and those seeking residential mortgages.

Ironically, Dodd–Frank proponents pushed for the law as necessary to rein in the big banks and Wall Street. In fact, the regulations are giving the largest companies a competitive advantage over smaller enterprises—the opposite outcome sought by Senator Christopher Dodd (D–CT), Representative Barney Frank (D–MA), and their allies. As Goldman Sachs CEO Lloyd Blankfein recently explained: "More intense regulatory and technology requirements have raised the barriers to entry higher than at any other time in modern history. This is an expensive business to be in, if you don't have the market share in scale."[11]

DOE Power Play

The Department of Energy (DOE) ranked second in the number of major rules issued last year, with six. All of the rules restrict energy use by various appliances and other electrical gadgets, including power adaptors for cellphones and laptops, and coolers in ice cream parlors and grocery stores.[12] The DOE has imposed a dizzying array of such mandates based on the very broad authority granted to it by Congress under the Energy Policy and Conservation Act of 1975.

This broad law requires any new energy standards to be "technologically feasible" and "economically justified"—standards that the DOE has often ignored. For example, in March, the agency issued stricter energy-conservation standards for commercial refrigeration equipment—a revision of 2009 standards. A legal challenge was subsequently filed by the Air-Conditioning, Heating and Refrigeration Institute, the trade association that represents manufacturers of affected equipment. According to the lawsuit, the standards were not technologically feasible, as required by the statute. Similar complaints have arisen regarding many of the other DOE standards.

The regulatory benefits cited by the agency also appear to violate basic requirements of the Energy Policy and Conservation Act. As reported by Sofie Miller of the George Washington University Regulatory Studies Center, the DOE attributed some 97 percent of the regulatory benefits to the reduction

7. DavisPolk, "Dodd–Frank Progress Report," Fourth Quarter 2014, January 1, 2015, http://www.davispolk.com/Dodd-Frank-Rulemaking-Progress-Report/ (accessed April 24, 2015).

8. Marshall Lux and Robert Greene, "The State and Fate of Community Banking," Harvard University, M-RCBG *Associate Working Paper Series* No. 37, February 2015, www.hks.harvard.edu/content/download/74695/1687293/version/1/file/Final_State_and_Fate_Lux_Greene.pdf (accessed April 24, 2015).

9. Ibid.

10. Government Accountability Office, "Community Banks and Credit Unions: Impact of the Dodd–Frank Act Depends Largely on Future Rule Makings," September 2012, http://www.gao.gov/assets/650/648210.pdf (accessed April 24, 2015).

11. "Regulation Is Good for Goldman," *The Wall Street Journal*, February 11, 2015, http://www.wsj.com/articles/regulation-is-good-for-goldman-1423700859 (accessed April 24, 2015).

12. This year's six efficiency mandates cover residential furnace fans; walk-in coolers and freezers; commercial and industrial electric motors; commercial refrigeration equipment; external power supplies; and metal halide lamp fixtures.

of carbon emissions and consumers' energy savings from more efficient refrigeration equipment.[13] But only 7 percent to 23 percent of the purported benefits from reduced carbon emissions would affect the United States. Nonetheless, the DOE scored the entire global reduction as a benefit.

Moreover, for each of these rules, the DOE counted as a benefit the energy savings to owners from more efficient equipment and appliances. But such "private benefits" constitute a substitution of the regulator's preference for that of consumers and entrepreneurs. Whether energy savings are worth the higher cost of a more efficient item is a decision that consumers and business owners can and should make for themselves. Taking away their ability to make that choice is not a benefit; it is, in fact, a steep cost.

Highest Cost Rules of 2014

Of the 2014 rules for which regulators quantified costs, the most expensive was the "Liquidity Coverage Ratio" adopted jointly by the Department of the Treasury, the Federal Reserve, and the Federal Deposit Insurance Corporation. Estimated to cost $2.5 billion annually, the rule requires larger banks to hold more cash and other "high-quality assets" in their reserves.

While such a requirement may seem sensible, the assets in reserve are unavailable for profit-generating investment. And it is consumers who end up paying for those lost opportunities in the form of higher fees on banking products and services.[14] On the other hand, banks would be far more likely to maintain adequate reserves on their own had the government not proven so amenable to bailouts.[15]

Ranking second in cost was the Environmental Protection Agency's (EPA's) Tier 3 Motor Vehicle Emission and Fuel Standards, which the agency calculates will cost automakers and consumers some $1.5 billion annually. This rule imposes more stringent vehicle emissions standards to reduce methane emissions by 80 percent, decrease particulate emissions by 70 percent, and further limit the sulfur content of gasoline. A variety of studies have calculated much higher costs for the rule, including an estimate prepared for the American Petroleum Institute by the consulting firm Baker & O'Brien Inc., of $2.4 billion annually.[16]

Among other directives, the rule would require refiners to reduce sulfur in gasoline from 30 parts per million (ppm) to 10 ppm. But the industry already invested some $9 billion in the past decade to reduce the sulfur content from 300 ppm to 30 ppm. The additional reduction would not yield measurable environmental benefits.

Understated Costs

The actual cost of new regulations issued in 2014 is considerably higher than the totals reported by the regulatory agencies and detailed here. As a first matter, this report documents only "major" regulations. Cost-benefit-analyses are not typically performed for the thousands of non-major rules issued each year, although the costs could be substantial.

But even the costs of major rules often go unquantified. Regulators did not fully quantify costs for 12 of the 27 prescriptive regulations issued in 2014. In several instances, agencies only reported paperwork costs, not any others. Although such costs should be considered, they hardly reflect the largest burden in most cases.

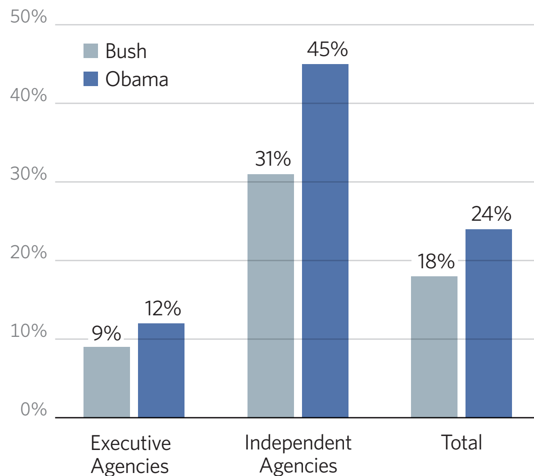
The EPA, for instance, in its 2014 rule governing the withdrawal of cooling water from lakes or rivers by power plants and factories, calculated annual paperwork costs ($291 million annually) but not the expense of the technology necessary for compliance.

13. Sofie E. Miller, "Energy Conservation Program: Energy Conservation Standards for Commercial Refrigeration Equipment," Public Interest Comment on The Department of Energy's Proposed Rule, November 12, 2013, http://regulatorystudies.columbian.gwu.edu/files/downloads/DOE_EERE-2010-BT-STD-0003.pdf (accessed April 24, 2015).
14. For more negative consequences of the rule, see Norbert Michel, "New Regulations Set to Backfire, Decrease Financial Stability," The Daily Signal, December 9, 2014, http://dailysignal.com/2014/12/09/new-regulations-set-backfire-decrease-financial-stability/.
15. Norbert J. Michel, "Repealing Dodd–Frank and Ending 'Too Big to Fail,'" Heritage Foundation *Backgrounder* No. 2973, November 3, 2014, http://thf_media.s3.amazonaws.com/2014/pdf/BG2973.pdf.
16. David C. Tamm and Kevin P. Milburn, "Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline," Baker & O'Brien Inc. (conducted for the American Petroleum Institute), March 2012, http://www.api.org/news-and-media/news/newsitems/2012/mar-2012/~/media/Files/News/2012/12-March/Addendum-Potential-Impacts-of-Lower-Sulfur-Lower-RVP-Gasoline-Report.ashx (accessed April 24, 2015).

CHART 2

Obama Administration Less Likely to Quantify Costs of Rules

PERCENTAGE OF RULES WITH NO QUANTIFIED COSTS



Note: Figures are for first six years of each Administration.
Source: Heritage Foundation calculations based on costs reported by agencies. See Appendix A for methodology.

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The capital costs of retrofitting a cooling water intake structure to prevent the intake of aquatic organisms can be "astronomical"—upwards of $2 billion—not including the substantial costs of downtime needed for the retrofit.[17]

Some costs, of course, are either difficult or impossible to quantify, such as the value of lost innovation or violations of personal liberty. But the proportion of rules adopted without quantified costs has grown during this Administration, as Chart 2 indicates.

A further problem is the fact that so-called independent agencies, which include most financial regulators, are largely exempt from requirements to perform cost-benefit analyses. Consequently, in a year dominated by Dodd–Frank rules, the reported regulatory costs are artificially low.[18]

For example, last August, the SEC finalized a money-market-fund rule restricting redemptions, regulating liquidity levels, and imposing a host of other operational requirements that change the very nature of the financial instrument. The SEC, however, only reported direct costs of $54 million annually—although the final rule will doubtless have more widespread and lasting repercussions on the economy. In several instances of joint rulemakings, only one of the multiple agencies involved in issuing a rule calculated any of the regulatory costs.

The increased absence of cost analyses represents a major dysfunction in the administrative process. Analyzing costs is necessary to identify the trade-offs inherent in rulemaking, and to determine the most efficient and effective course of action among various alternatives. It is also crucial information that allows the public to hold regulators accountable. Without such information, regulators are free to act on whim rather than reason.

Where Is OIRA?

For executive branch agencies, the integrity of cost analyses is the responsibility of the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). There is currently an unusually large backlog of regulations awaiting approval at this office. According to OIRA data, 33 of the 94 regulations awaiting review in mid-March had been pending for more than 90 days, exceeding the maximum time allotted under Executive Order 12866, which governs the review process. Another 18 regulations were pending for more than 60 days (though fewer than 90 days).[19]

If the delays in OIRA's review were the result of more thorough analyses, or consideration of regulatory alternatives, that would be good news for the economy and consumers. But it is far from clear that this is the case. With a staff of about 50, OIRA is reviewing the work of agencies that have a combined total of nearly 282,000 staffers, a personnel ratio of over 5,600:1. This would be a difficult job even with

17. Kevin P. Martin, "Litigation Guide to EPA's Cooling Water Intake Rule," Law360.com, June 25, 2014, http://www.law360.com/articles/550674/litigation-guide-to-epa-s-cooling-water-intake-rule (accessed April 24, 2015).

18. As shown in Chart 2, the reduced percentage of rules with quantified costs is due only partly to an increase in the portion of total rules from independent agencies. Even considered separately, the percentage of executive branch rules and the percentage of independent agency rules with no quantified costs have been lower during the Obama Administration than during the Bush presidency.

19. Office of Information and Regulatory Affairs, "Pending Actions by Rule Stage," reginfo.gov, http://www.reginfo.gov/public/ (accessed April 24, 2015).

the support of the President. It is all the more difficult under the present Administration, which has hardly made controlling regulatory costs a priority.

Given these and other problems, it is no surprise that the overall quality of agency cost-benefit analyses is low. In a recent Mercatus Center scorecard of the quality of agency regulatory impact analyses, none of the 108 analyses examined received more than a 3.2 score of a possible 5—meaning each was incomplete in some material way. "If I were assigning letter grades, every one of these regulatory impact analyses would earn an F," said co-author Jerry Ellig.[20]

Perhaps even worse, Mercatus found that, for 64 percent of the 108 regulations studied, agencies provided no evidence that cost-benefit analyses informed their rulemaking. For another 21 percent of the regulations, agencies indicated that such analyses only influenced a minor decision, while for 23 percent of the regulations the analyses influenced one or more rulemaking decisions.

Distorted Benefits

The Obama Administration defends its regulatory record by touting the projected benefits of the rules. But benefit estimates—as calculated by the agencies—need to be considered with skepticism. While regulators have an incentive to minimize the costs of regulations, they also have an incentive to misconstrue the benefits. Some of the benefits claimed are not beneficial at all, such as the "private benefits" noted above. In other instances, agencies skew results by using unrealistic or unsupported claims.

A prime example is the nutrition labeling rule finalized by the Food and Drug Administration (FDA) on December 1, 2014. The regulation requires restaurants and other food establishments[21] to post nutrition information (including calorie content) for their fare. Although mandated by the Affordable Care Act, the rule greatly exceeds the statutory requirement.[22]

As described by the FDA, the "potential" benefits of the rule result from "the nutrition information made available in a direct and accessible manner to enable consumers to make informed and healthful dietary choices." In quantifying the benefits of the rule, the FDA acknowledged that its calculations were "based on the assumption that increasing the accessibility of the nutrition information for certain food items will increase the likelihood that consumers will use them to make informed and healthful dietary choices."[23]

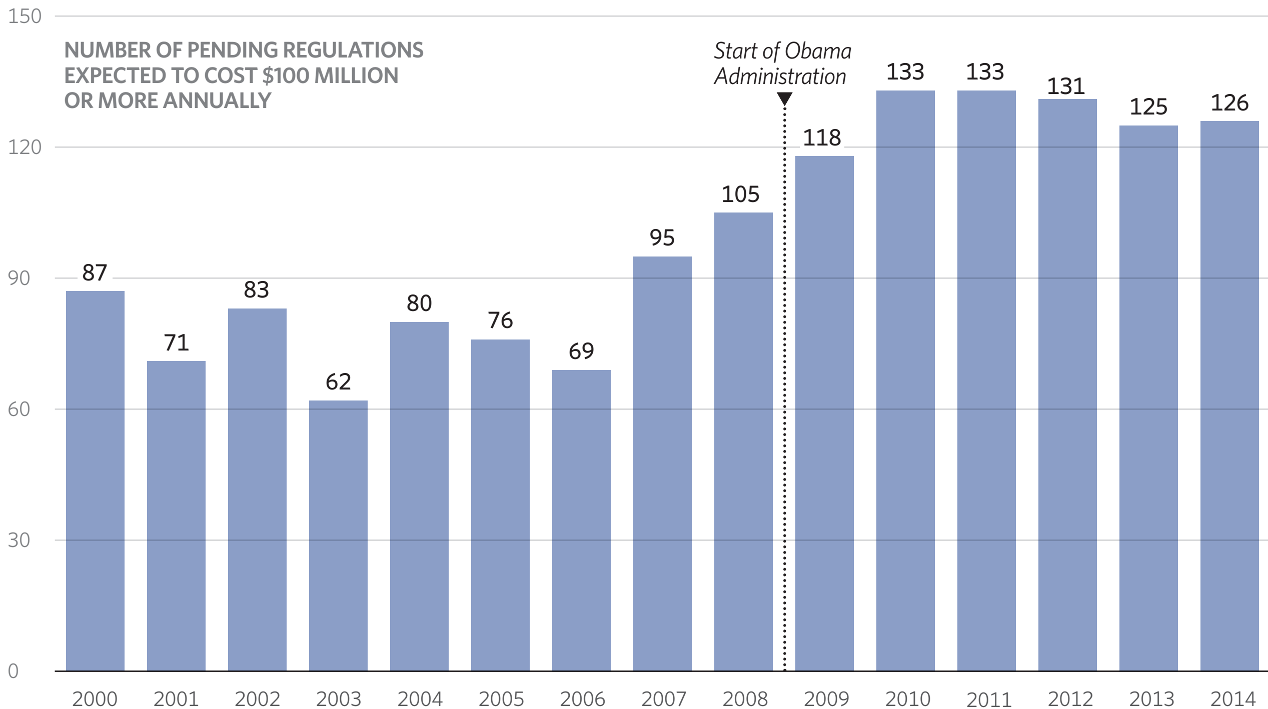
Alas, as much as regulators wish they could "nudge" citizens to behave in prescribed ways, such measures rarely turn out as planned. In the case of nutrition labeling, a mountain of research has documented that nutrition labeling does not change eating patterns.[24] (Indeed, the FDA acknowledges that any reduction in calorie intake in the regulated settings may be offset by increases in calorie intake during other meals and snacks.)[25] Nonetheless, the FDA claims that the rule will produce $6.6 billion in benefits over 20 years—principally from a reduction in obesity.

Wishful thinking is no substitute for facts. Like a great deal of other government attempts to change behavior, there is very little likelihood that this costly regulation will produce the benefits ascribed to it by those who imposed it.

20. Jerry Ellig, "Comprehensive Regulatory Impact Analysis: The Cornerstone of Regulatory Reform," testimony before the Committee on Homeland Security and Governmental Affairs, U.S. Senate, February 25, 2015.
21. The FDA has designated the following establishments to be covered by the rule: bakeries; cafeterias; coffee shops; convenience stores; delicatessens; food service facilities in amusement parks, bowling allies, and movie theaters; food service vendors, such as ice cream shops and mall cookie counters; food take-out or delivery establishments, such as for pizza; grocery stores; retail confectionary stores; superstores; quick-service restaurants; and table service restaurants.
22. Daren Bakst, "FDA's Final Menu Labeling Rule: Going Way Beyond What's Required Under Obamacare," The Daily Signal, November 25, 2014, http://dailysignal.com/2014/11/25/fdas-final-menu-labeling-rule-going-way-beyond-whats-required-obamacare/.
23. Department of Health and Human Services, "Food Labeling: Calorie Labeling of Articles of Food in Vending Machines," November 2014.
24. Diane Katz, "Tales of the Red Tape #5: Calorie Counts Forced Down Our Throats," The Daily Signal, April 6, 2011, http://dailysignal.com/2011/04/06/tales-of-the-red-tape-5-calorie-counts-forced-down-our-throats/.
25. Food and Drug Administration, "Food Labeling: Calorie Labeling of Articles of Food in Vending Machines," *Regulatory Impact Analysis*, November 2014.

CHART 3

More "Economically Significant" Rules On the Way



Notes: Years reflect Fall Agendas, except for 2012 when only a single agenda was issued.
Source: Office of Management and Budget, "Unified Agenda and Regulatory Plan Search Criteria," http://www.reginfo.gov/public/do/eAgendaAdvancedSearch (accessed April 21, 2015). Under "Agency or Agencies," select "All," then "Continue." Under the "Priority" subheading, select"Economically Significant." Under "Agenda Stage of Rulemaking," select "Proposed Rule Stage" and "Final Rule Stage."

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More Ahead

Hundreds of other costly regulations are also in the works. The most recent Unified Agenda—a semi-annual compendium of planned regulatory actions by agencies—lists 2,219 rules (proposed and final) in the pipeline.[26] Of these, 126 are classified as "economically significant."[27] This year's 126 economically significant rules in the agenda represent an increase of 32 percent from the 95 economically significant rules identified in 2007. (See Chart 3.)

Among the most anticipated rules is finalization of the EPA's stricter standards on emissions of ozone, which many analysts predict will be the most costly regulation ever imposed by any agency. The EPA is proposing to lower the allowable level of ozone to a range of 65–70 parts per billion (ppb) and has solicited comment on standard levels as low as 60 ppb. By the EPA's own count, a 60-ppb standard could cost as much as $90 billion per year. As it is, the existing standards have not even been fully implemented.

Notice of upcoming regulatory actions is an important tool for government accountability and transparency. The agenda enables citizens to anticipate the rulemaking process, businesses to plan, and Congress to initiate oversight before rulemaking is a fait accompli. The stakes are especially high

26. Office of Information and Regulatory Affairs, Unified Agenda and Regulatory Plan, http://www.reginfo.gov/public/do/eAgendaAdvancedSearch (accessed April 24, 2015)—under *Agency or Agencies*, select **All**, and then **Continue**. Under the *Priority* subheading, select **Economically Significant**; under *Agenda Stage of Rulemaking*, select **Proposed Rule Stage** and **Final Rule Stage**.

27. Ibid.

now because of the hundreds of rules related to Obamacare and the Dodd–Frank financial regulation statute.

The public's ability to see which new rules are on the horizon has been diminished in recent years by the Administration's failure to comply with the law regarding the release of the regulatory agendas. Not only has it failed to meet the required deadlines, it has consistently released the agenda just before major holidays, when media coverage is low. (See text box.) The President's neglect of the law contrasts sharply with his promise of an "unprecedented level of openness in government."[28]

Obama's Politically Timed Agenda Releases

AGENDA	RELEASE
Fall 2012	December 21 (Friday before Christmas)
Spring 2013	July 3 (day before Independence Day)
Fall 2013	November 27 (day before Thanksgiving)
Spring 2014	May 23 (Friday of Memorial Day weekend)
Fall 2014	December 22 (three days before Christmas)

Steps for Congress

Congress should increase scrutiny of existing and new regulations to ensure that each is constitutional and necessary, and that costs are minimized. To do so, Congress should:

1. **Require congressional approval of new major regulations issued by agencies.** Congress, not regulators, should make the laws and be accountable to the American people for the results. No major regulation should be allowed to take effect until Congress explicitly approves it. The Regulations from the Executive in Need of Scrutiny (REINS) Act, approved by the House in August 2013, would impose such a requirement.[29]

2. **Require regulatory impact assessments of proposed legislation.** Lawmakers routinely vote on bills authorizing mandates or restrictions on Americans without any systematic assessment of the costs or other potential effects. Just as a Congressional Budget Office (CBO) review is required for any spending measures, a regulatory assessment should be required for any bill before it reaches the floor for a vote. This review function could be performed by one of several organizations, including a stand-alone entity similar to the CBO, or a separate unit within the GAO.

3. **Establish a sunset date for regulations.** To help ensure that obsolete and ineffective rules are taken off the books, Congress should set sunset dates for all major regulations. After this sunset date, rules should expire automatically if not explicitly reaffirmed by the relevant agency through the normal rulemaking process. As with any such regulatory decision, this reaffirmation would be subject to review by the courts. Such sunset clauses already exist for some new regulations. Regulators and, if necessary, Congress should make them the rule, not the exception.

4. **Subject "independent" agencies to executive branch regulatory review.** Increasingly, rulemaking is being conducted by independent agencies outside the direct control of the White House. Regulations issued by agencies such as the Federal Communications Commission, the SEC, and the Consumer Financial Protection Bureau are not subject to review by OIRA or even required to undergo a cost-benefit analysis. This is a serious loophole in the rulemaking process. These agencies should be fully subject to the same safeguards that apply to executive branch agencies.

5. **Codify stricter information-quality standards for rulemaking.** Federal agencies too often mask politically driven regulations as scientifically based imperatives. In such cases, agencies fail to properly perform scientific and economic analyses or selectively pick findings from the academic literature to justify their actions

28. President Barack Obama, "Transparency and Open Government," The White House, Memorandum for the Heads of Executive Departments and Agencies, https://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/ (accessed April 24, 2015).

29. For more information, see James L. Gattuso, "'The REINS Act of 2013': Promoting Jobs, Growth, and Competitiveness," testimony before the Subcommittee on Regulatory Reform, Commercial and Antitrust Law, Committee on the Judiciary, U.S. House of Representatives, March 5, 2013, http://www.heritage.org/research/testimony/2013/reins-act-of-2013.

and ignore evidence that contradicts their agenda. Congress should impose specific strict information-quality standards for rulemaking, as well as conduct oversight to ensure that the standards are met. Congress should also make compliance with such standards subject to judicial review, and explicitly state that noncompliance will cause regulation to be deemed "arbitrary and capricious."

6. **Reform "sue and settle" practices.** Regulators often work in concert with advocacy groups to produce settlements to lawsuits that result in greater regulation. Such collaboration has become a common way for agencies to impose rules that otherwise would not have made it through the regulatory review process. To prevent such "faux" settlements, agencies should be required to subject proposed settlements to public notice and comment.

7. **Increase professional staff levels within OIRA.** OIRA is one of the only government entities in Washington that is charged with limiting, rather than producing, red tape. But OIRA's meager staff is outgunned and outnumbered by the regulators whose work they are charged with reviewing. The cost of the additional staffing should be borne by regulatory agencies and based on each regulation submitted to OIRA for review.

8. **Codify the requirement now imposed by Executive Order 12866 mandating agencies to assess the costs and benefits of proposed rules and to consider alternatives.** Giving these requirements the force of law ensures that they cannot be rolled back without congressional action and provides the basis for judicial review of agency compliance.

Conclusion

Six years into the Obama presidency, the burden of red tape on Americans continues to increase significantly. As estimated by regulators, nearly $80 billion in new regulatory costs have been imposed since 2009, more than twice the amount imposed by the Bush Administration during its first six years. And, that figure is very conservative—the actual burden is no doubt much higher. To prevent further harm to the economy, and to the personal liberties of Americans, Congress should take immediate steps to control this excessive regulation.

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Appendix A

Methodology

Rules included are those categorized as "major" as reported in the Government Accountability Office's (GAO's) Federal Rules Database (http://www.gao.gov/legal/congressact/fedrule.html). Unlike the similar database maintained by the Office of Management and Budget (OMB), the GAO's Federal Rules Database includes independent agencies, such as the Securities and Exchange Commission, that do not undergo executive branch review. All such rules appearing in the database as of April 21, 2015, are included. Rules adopted before that date but not yet posted in the GAO database are not included.

Only "prescriptive" rules were included. Rules that do not limit activity or mandate activity by the private sector were excluded from the totals provided. Thus, for instance, budgetary rules that set reimbursement rates for Medicaid or conditions for receipt of agricultural subsidies are excluded.

Cost figures are based on agency assessments of rule costs as stated when the rule was adopted, typically from regulatory-impact analyses conducted by agencies issuing each rule. In calculating Bush Administration rules, the OMB estimates were used if available. If an agency did not prepare an analysis or did not quantify costs, no amount was included, although the rule was included in the count of major regulations.

The agencies' totals were adjusted to constant 2010 dollars using the gross domestic product deflator at Areppim's "Current to Real Dollars Converter" (http://stats.areppim.com/calc/calc_usdlrxdeflator.php).

Where applicable, a 7 percent discount rate was used. Where a range of values was given by an agency, costs were based on the most likely scenario if so indicated by the agency; otherwise, the mid-point value was used. The date of a rule was based, for classification purposes, on the date of publication in the *Federal Register*.

Unless otherwise noted, years refer to "presidential years," beginning on January 21 and ending on January 20.

Appendix B

Major Rules that Increase Regulatory Burdens Published in the *Federal Register* January 21, 2014–January 20, 2015

(Costs in 2010 dollars unless otherwise noted)

1. January 31, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Securities and Exchange Commission: Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds.*

Popularly known as the "Volcker Rule" for its leading proponent, former Federal Reserve Board chairman Paul Volcker, this rule restricts "proprietary trading" by banks and certain other financial firms. The rule is one of hundreds of new retractions mandated by the 2010 Dodd–Frank Act. Taking four years to complete and 1,000 pages to explain, the Volcker Rule has been criticized as unnecessary for safeguarding markets, and dangerous to the economy.[30]

Cost: Cost not quantified by agencies.

2. January 31, 2014: *Commodity Futures Trading Commission: Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds.*

This rule constitutes the Commodity Futures Trading Commission's implementation of the Volcker rule, and is substantively the same as the rule above.

Cost: Cost not quantified by agency.

3. February 10, 2014: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for External Power Supplies.*

This rule reduces consumer choice and increases prices by imposing tighter energy-efficiency mandates on the more than 300 million power adapters or power "bricks" that Americans use to charge cellphones, laptops, even electric toothbrushes.

Annual cost: $141.5 million

4. February 10, 2014: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Metal Halide Lamp Fixtures.*

This rule tightens energy conservation standards for metal halide lamp fixtures, used for lighting large public areas, such as parking lots and stadiums.

Annual cost: $44.3 million

5. March 27, 2014: *Federal Reserve System: Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations.*

This rule imposes enhanced regulatory oversight, as required under Dodd–Frank, for bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more. This rule has been criticized for creating a two-tiered regulatory system, and strengthening the perception that some institutions are "too big to fail."[31]

Cost: Cost not quantified by agency.

6. March 28, 2014: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Commercial Refrigeration Equipment.*

This rule imposes more stringent energy-efficiency standards for commercial refrigeration units used in supermarkets, convenience stores, and ice cream parlors. The rule is being challenged in court by the North American Association of Food Equipment Manufacturers, which argues that the new standard will increase the flammability of the units, and places an undue burden on small businesses.[32]

Annual cost: $246.4 million

Implementation cost: $177.1 million

30. See, for example, Peter J. Wallison, "Why the Volcker Rule Will Harm the U.S. Economy," *The American*, December 13, 2013, http://www.aei.org/publication/why-the-volcker-rule-will-harm-the-u-s-economy/ (accessed April 24, 2015).
31. Paul H. Kupiec, "What Makes a Bank Systematically Important?" testimony before the Subcommittee on Financial Institutions and Consumer Protection, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, July 16, 2014, http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=fbd82111-1b8a-4cb5-bc2b-eb0de1ddf4e7 (accessed April 24, 2015).
32. North American Association of Food Equipment Manufacturers, "NAFEM Files Petition for Court Review of Department of Energy (DOE) Commercial Refrigeration Energy Efficiency Rule," June 2014, https://www.nafem.org/information-resources/refrigerationreportjune2014.aspx (accessed April 24, 2015).

7. April 7, 2014: *Department of Transportation, National Highway Traffic Safety Administration: Federal Motor Vehicle Safety Standards: Rear Visibility.*

This rule mandates greater rear visibility for all passenger cars, trucks, and other vehicles. The National Highway Traffic Safety Administration expects that this mandate will be met through near-universal use of rear-camera video systems. The marketplace is already moving toward adoption of this technology, with 73 percent of all vehicles expected to have rear-camera systems by 2018.

Annual cost: $583 million

8. April 11, 2014: *Department of Labor, Occupational Safety and Health Administration: Electric Power Generation, Transmission, and Distribution: Electrical Protective Equipment.*

This rule, which had been pending at the Occupational Safety and Health Administration since 2005, updates workplace safety rules concerning the construction of transmission and distribution installations.

Annual cost: $46.3 million

9. April 14, 2014: *Federal Deposit Insurance Corporation: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule.*

This rule is substantively identical to an interim final rule issued in 2014. It revises the risk-based and leverage-capital requirements for Federal Deposit Insurance Corporation (FDIC)- supervised institutions. The costs are substantially the same as those imposed by the interim rule. Those costs were only partially quantified.

Cost: No additional cost over interim rule.

10. April 28, 2014: *Environmental Protection Agency: Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards.*

This rule imposes more stringent vehicle-emissions mandates on auto manufacturers and their customers to reduce the allowable sulfur content of gasoline, requiring emissions reductions of methane by 80 percent and decreases in particulate emissions by 70 percent.

Annual cost: The EPA estimates that the total cost to consumers and manufacturers from this regulation will be $1.5 billion annually, due to increased costs for new cars and higher gasoline prices. Some studies, however, have estimated much higher burdens. The American Petroleum Institute, for example, projects costs of $2.4 billion per year.[33] For purposes of the tally in this *Backgrounder*, we use the EPA's figure ($1.42 billion in 2010 dollars).

Implementation cost: $20.6 million

11. May 1, 2014: *Department of Labor, Mine Safety and Health Administration: Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors.*

This rule imposes tighter standards on exposure to coal-mine dust by miners. It has been criticized by the coal-mine industry as a "one size fits all" approach that does not provide real protection to workers. A lawsuit against the rules filed by the National Mining Association is pending.[34]

Annual cost: $26.3 million

Implementation cost: $57.1 million

12. May 1, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation: Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and Their Subsidiary Insured Depository Institutions.*

This rule strengthens supplementary leverage ratio standards for large, interconnected U.S. banking organizations. It applies to any top-tier bank holding company with more than $700 billion in total consolidated assets or more than $10 trillion in assets under custody. The rule also applies to any insured depository institutions of these bank holding companies.

33. Richard K. Lattanzio and James E. McCarthy, "Tier 3 Motor Vehicle Emission and Fuel Standards," Congressional Research Service, April 28, 2014, http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43497.pdf (accessed April 24, 2015).

34. Timothy Cama, "Mining Industry Files Lawsuit Against Coal Dust Rule," *The Hill*, May 5, 2014, http://thehill.com/policy/energy-environment/205238-mining-industry-files-lawsuit-against-coal-dust-rule (accessed April 24, 2015).

Annual cost: $553.8 million (Cost only partially quantified by agencies.)

13. May 27, 2014: *Department of Health and Human Services: Exchange and Insurance Market Standards for 2015 and Beyond.*

This rule imposes various requirements applicable to health insurance issuers, Affordable Insurance Exchanges, and other entities under the Affordable Care Act. This includes mandates related to discontinuation and renewal, quality reporting, non-discrimination standards, minimum certification standards, and responsibilities of qualified health plan issuers.

Annual cost: $18.7 million (Cost only partially quantified by agency.)

14. May 29, 2014: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Commercial and Industrial Electric Motors.*

This rule imposes energy conservation standards on several different groups of electric motors that the Department of Energy (DOE) has not previously regulated. The motors that will be covered under these standards range from motors used in escalators and conveyors to motors used in irrigation and many municipal water and wastewater systems.

Annual cost: $490.3 million

15. June 3, 2014: *Department of Energy: Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Freezers.*

This rule imposes energy conservation standards on certain types of walk-in cooler and walk-in freezer components. The rule has been criticized for going beyond what is technically feasible, and saddling consumers with "higher costs and fewer choices."[35] At least one lawsuit has been filed to stop the rule from taking effect.

Annual cost: $484.6 million

Implementation cost: $31.9 million

16. July 3, 2014: *Department of Energy: Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans.*

This rule prescribes energy-conservation standards for residential furnace fans. According to economist Robert P. Murphy, the justification for this rule is seriously flawed. Not only are the DOE's benefit estimates exaggerated, but even by the DOE's own figures, only a minority of Americans will experience net financial benefits from the expected energy savings.[36]

Annual cost: $339.5 million

17. July 9, 2014: *Securities and Exchange Commission: Application of "Security-Based Swap Dealer" and "Major Security-Based Swap Participant" Definitions to Cross-Border Security-Based Swap Activities.*

This final rule addresses the application of the definition of "security-based swap dealer" and "major security-based swap participant" in instances of cross-border dealings under Dodd–Frank.

Annual cost: $1.1 million

Implementation cost: $67.3 million

18. August 14, 2014: *Securities and Exchange Commission: Money Market Fund Reform: Amendments to Form PF.*

This rule amends the rules that govern money market mutual funds under the Investment Company Act of 1940. The rule is designed to address these funds' susceptibility to heavy redemptions in times of economic stress. The rule removes the valuation exemption that permitted institutional non-government money market funds to maintain a stable net asset value (NAV) per share, and is requiring those funds to sell and redeem shares based on the current market-based value of the securities in their underlying portfolios. (That is, transact at a floating NAV.)

Annual cost: $54.3 million (Cost only partially quantified by agency.)

Implementation cost: $655 million

35. Jen Anesi, "AHRI, Lennox Petition Court to Review DOE Walk-in Standard," ACHRNews.com, August 25, 2014, http://www.achrnews.com/articles/127460-ahri-lennox-petition-court-to-review-doe-walk-in-standard (accessed April 24, 2015).

36. Robert P. Murphy, "Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans," Mercatus Center Public Interest Comment, December 24, 2013, http://mercatus.org/sites/default/files/Murphy-DOE-PIC.pdf (accessed April 24, 2015).

19. August 15, 2014: *Environmental Protection Agency: National Pollutant Discharge Elimination System—Final Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities and Amend Requirements at Phase I Facilities.*

This rule establishes requirements under the Clean Water Act for certain power-generating facilities and existing manufacturing and industrial facilities that are designed to withdraw more than 2 million gallons per day of water and use at least 25 percent of the water they withdraw exclusively for cooling purposes. The purpose of this rule is to limit the entrapment of fish and other aquatic organisms at cooling-water intake structures used by the facilities. A coalition of power plants has sued to block the rule as "unduly burdensome."[37]

Annual cost: $291.3 million (Cost only partially quantified by agency.)

20. September 15, 2014: *Securities and Exchange Commission: Nationally Recognized Statistical Rating Organizations.*

This rule adopts amendments to existing rules as well as a variety of new regulations for credit-rating agencies registered with the SEC as nationally recognized statistical rating organizations. It also adopts a new rule that applies to certain providers of third-party due-diligence services.

Annual cost: $725,600 (Cost only partially quantified by agency.)

Implementation cost: $8.3 million

21. September 24, 2014: *Securities and Exchange Commission: Asset-Backed Securities Disclosure and Registration.*

This rule revises regulations governing the offering process, disclosure, and reporting for asset-backed securities (ABS), as well as revising filing deadlines for ABS offerings to provide investors with more time to consider transaction-specific information. The rule adopts new registration forms for ABS offerings and establishes new shelf-eligibility criteria.

Annual cost: $54.5 million (Cost only partially quantified by agency.)

22. September 26, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation: Regulatory Capital Rules: Regulatory Capital, Revisions to the Supplementary Leverage Ratio.*

This rule revises total leverage exposure to include the effective principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection. It also modifies the calculation of total leverage exposure for derivative and repo-style transactions and revises the credit-conversion factors applied to certain off-balance sheet exposures. In addition, the rule changes the way supplementary leverage ratios are calculated.

Annual cost: $72.1 million (Cost only partially quantified by agency.)

23. October 10, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation: Liquidity Coverage Ratio: Liquidity Risk Measurement Standards.*

This rule implements a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision. It also establishes a quantitative minimum-liquidity-coverage ratio that requires a company subject to the rule to maintain a larger amount of high-quality liquid assets. The rule applies to large and internationally active banking organizations because of their complexity, funding profiles, and potential risk to the financial system.

Annual cost: $2.5 billion

Implementation cost: $641 million

24. **December 1, 2014:** *Department of Health and Human Services, Food and Drug Administration: Food Labeling: Calorie Labeling of Articles of Food in Vending Machines.*

This rule requires labeling on vending machines to show the number of calories in each item. Required by the Affordable Care Act, the rule applies to vending machines operated by a person who owns or operates 20 or more vending machines. Critics point out that the FDA's own analysis provides no

37. Amena Saiyid, "Power Plants Ask Federal Appeals Court to Review EPA Cooling Water Intake Rule," Bloomberg *BNA Daily Environment Report*, September 9, 2014, http://www.bna.com/power-plants-ask-n17179894615/ (accessed April 24, 2015).

evidence that the additional labeling (caloric counts are already on the item itself) will affect consumer behavior at all.[38]

Annual cost: $33.1 million

25. December 1, 2014: *Department of Health and Human Services, Food and Drug Administration: Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments.*

This rule implements restaurant nutrition labeling provisions of the Affordable Care Act. The FDA is requiring disclosure of certain nutrition information for standard menu items in certain restaurants and retail food establishments (chains with 20 or more locations doing business under the same name and offering the same menu items). Critics point out that the rule imposes substantial costs, with no evidence that it will change consumer behavior.[39]

Annual cost: $79.1 million

26. December 5, 2014: *Securities and Exchange Commission: Regulation Systems Compliance and Integrity.*

This rule adopts a new "Regulation SCI" (for "Regulation Systems Compliance and Integrity"), which covers the technological infrastructure of securities markets. Under the regulation, self-regulatory organizations, certain alternative trading systems, plan processors, and certain exempt clearing agencies are required to have comprehensive policies and procedures in place for their technological systems.

Annual cost: $130.5 million

Implementation cost: $165.6 million

27. December 24, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation; Federal Housing Finance Agency; Securities and Exchange Commission; Department of Housing and Urban Development: Credit Risk Retention.*

This rule imposes credit-risk-retention requirements as required under Dodd–Frank. It generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing securities. The agency also created several exemptions from these requirements, including an exemption for "qualified residential mortgages."

Annual cost: $2.3 million (Cost only partially quantified by agencies.)

38. Sherzod Abdukadirov, "Vending Machine Regulations Aren't Worth the Price," *U.S. News & World Report*, March 10, 2014, http://www.usnews.com/opinion/economic-intelligence/2014/03/10/fda-wasting-millions-on-vending-machine-rule-that-wont-stop-obesity (accessed April 24, 2015).

39. Daren Bakst, "Obamacare's Menu Labeling Law: The Food Police are Coming," Heritage Foundation *Issue Brief* No. 4008, August 6, 2013, http://www.heritage.org/research/reports/2013/08/obamacare-s-menu-labeling-law-the-food-police-are-coming.

Appendix C

Major Rules that Decrease Regulatory Burdens Published in the *Federal Register* January 21, 2014–January 20, 2015

(Costs in 2010 dollars unless otherwise noted)

1. January 31, 2014: *Department of the Treasury, Office of the Comptroller of the Currency; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; Securities and Exchange Commission; Commodity Futures Trading Commission: Treatment of Certain Collateralized Debt Obligations Backed Primarily by Trust Preferred Securities with Regard to Prohibitions and Restrictions on Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds.*

This interim rule permits banking entities to retain investments in certain pooled investment vehicles that invested their proceeds in securities grandfathered under section 171 of Dodd–Frank.

Savings: Savings not quantified by agencies.

2. December 18, 2014: *Department of Transportation, Federal Motor Carrier Safety Administration: Inspection, Repair, and Maintenance: Driver-Vehicle Inspection Report.*

This rule rescinds the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce (except drivers of passenger-carrying CMVs) submit, and that motor carriers retain, Driver-Vehicle Inspection Reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies.

Annual savings: $1.6 billion