Smart Regulation

U.S. Advanced Manufacturing Plan

Overview

Dow believes that well-conceived and effectively implemented regulations are important tools for protecting workplaces, and the well being of people and environment. Done right, they also ensure American industry retains the capacity to operate and innovate, and thereby bolster the economy and the nation's workforce.

The reality is somewhat different. Today, U.S. manufacturers are required to comply with a massive amount of data collection, reporting and other regulatory requirements. The Code of Federal Regulations alone is now more than 175,000 pages long and contains more than 200 volumes. In many cases, regulations are vital and have contributed significantly to making our nation's workplaces the safest and our environment among the cleanest in the world, but increasingly, unnecessarily burdensome regulations are imposing massive costs on U.S. companies with little or no public benefit. For example, some environmental regulations do little to further improve or protect our air, water and sensitive lands, but still impose severe economic burdens on manufacturers. Where this is the case, the cost of compliance can be a major hindrance to the expansion of manufacturing and hiring in the U.S. In these instances, American manufacturing and productivity suffer, and the result is too often felt most by the American worker.

We seek a proper balance that maximizes the effectiveness of both regulation and innovation. We advocate for smarter regulations that provide more flexibility for operations and reduce the burden of compliance, while achieving their statutory objectives.

The Cost to Business

In a recent survey on the cost of federal regulations, the Business Roundtable (BRT) asked its member companies what they would do with money saved if their existing regulatory costs were suddenly and permanently decreased by 20 percent. In response, member companies (113 respondents out of 204) said they would increase investment in R&D and new technologies (70 percent of respondents), increase investment in capital replacement (65 percent of respondents) and/or increase hiring (43 percent of respondents).

Recommendations

- **Cost-benefit analysis for all major rules:** Under Executive Order (EO) 12866, covered agencies are required to conduct a cost-benefit analysis (CBA) for each economically significant rule. A regulation is considered "major" if it has an annual effect on the economy of $100 million or more and causes a "major" increase in prices for consumers or changes an industry. [Source: American Action Forum]. Agencies are required to submit the CBA for review by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB). The Executive Order excludes certain "independent" agencies, even though such agencies are responsible for around 20 percent of the most costly rules.
  - Congress should codify EO 12866 and expand the CBA requirement to all agencies.
  - Significant new rules should be evaluated via a CBA that is based on sound science. Such a CBA must be reproducible, identify uncertainties in the analysis, and must demonstrate an increase in human health or environmental benefits that justify the additional cost.
  - OIRA's resources need to be increased to enable it to adequately fulfill its duties.

- **Improve retrospective review:** Federal agencies regularly publish plans that identify existing regulations to determine if they have achieved their objectives, and whether they need to be updated or eliminated.
  - Agencies can further improve this process by incorporating a plan for retrospective review into every new major rule and leveraging input from stakeholders to a greater extent.
  - Additionally, OMB should exercise greater oversight of agency plans.
- **Harmonize and simplify rules:** A less burdensome regulatory regime can allow Dow and other manufacturers to boost efficiency and productivity, growing jobs and the tax base. Different agencies need to harmonize and simplify rules, especially where there is overlap in jurisdiction.

- **Enact performance standard regulations:** Change the regulations/statutes to orient toward performance standards rather than prescriptive, rigid requirements, and thereby allow industry to be creative and develop the most efficient method of meeting the intent of the regulation.
- **Broader stakeholder input:** Agencies should work more collaboratively with industry in the regulatory development phase to ensure that better, more implementable standards, are developed.
- **Streamline permitting processes:** The uncertainty, complexity and delays in the review and approval processes for operating permits can cause industry to miss growth opportunities.
  - Accelerate permitting decisions and extend permit durations.
  - Extend the duration of permits that are working.
- **Fair enforcement focused on statutory requirements:** The EPA must end the practice of adding increasingly burdensome regulatory programs through enforcement and should not impose programs that go beyond the scope and requirements of existing law.
- **Benchmarking:** Any new requirements should be benchmarked against other developed countries' equivalent regulations to ensure that U.S. regulations do not disadvantage American industry relative to its overseas competitors.

The Cost to the Economy

Federal regulations today impose a burden of $1.88 trillion on the economy. This "hidden tax" equates to roughly $15,000 per household and exceeds every item except housing, which accounts for 23 percent of a household income of $63,784. [Source: Competitive Enterprise Institute, 2015. Ten Thousand Commandments – An Annual Snapshot of the Federal Regulatory State]

By June 2015, President Obama's regulators issued 500 major regulations. The combined cost of these major regulations from 2009 to present is $625 billion [Source: Regulation Rodeo Website]. Yet the march toward costly and burdensome regulations continues.

Cost-Benefit Analysis

A recent evaluation sponsored by Business Roundtable revealed that Cost-Benefit Analysis (CBA) for major rules is often not reproducible. [Source: Business Roundtable, Using Cost-Benefit Analysis to Craft Smart Regulation, December 2014]. A transparent and reproducible CBA increases public confidence in the quality of the analysis while serving as a powerful incentive for objective analysis.