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Changing the Culture of Regulation in Washington

Regulatory Policy Commentary

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by Kathryn Vesey, Research Associate

The George Washington University Regulatory Studies Center

Regulatory policy should protect public health, safety and welfare while also not impeding innovation and competition in the private sector. The Obama Administration took a noteworthy step in this direction on Thursday, May 26, 2011, when it released the preliminary findings of a government-wide regulatory review conducted as part of President Obama's [Executive Order 13563](#).

This review aimed to identify major rules that place anachronistic, unnecessary, unjustified paperwork burdens and/or impose redundant or contradictory requirements on businesses and state and local governments that should be eliminated or modified. As Cass Sunstein, Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), said in remarks at a [conference](#) held at the George Washington University and recently wrote in the [Wall Street Journal](#), the Obama Administration hopes to "change the regulatory culture of Washington by constantly asking what's working and what isn't." To date, 30 federal agencies have risen to this challenge and submitted [preliminary action plans](#) to improve and streamline regulations. These plans are now open for public comment and expected to be finalized in approximately 80 days.

Effects of regulations are often framed in terms of how they hurt businesses, where in reality consumers and workers also feel the costs of regulations. Unnecessary regulatory burdens can undermine competitiveness, discourage job creation and innovation, and obstruct economic growth, consequences that no doubt have a negative impact on public welfare as well as businesses large and small. Such were the [remarks](#) of Cass Sunstein as he announced the results of this regulatory reform initiative.

Among the many reforms proposed by the agencies, a few stand out. The Occupational Safety and Health Administration (OSHA), within the Department of Labor, will be announcing a final rule to eliminate redundant reporting requirements on businesses, with estimated cost savings of more than \$40 million per year. On a grander scale, that same agency is planning to finalize a proposed rule to bring U.S. hazard standards into harmony with those of other nations, with estimated annual savings of \$585 million. The Environmental Protection Agency (EPA), meanwhile, is proposing to eliminate the requirement in many states that air pollution vapor recovery systems be present in local gas stations, since modern vehicles are designed to serve the same purpose already, thereby making the requirement placed on gas stations redundant and unnecessary. This reform is expected to save \$67 million annually.

It should be noted that the agencies' action plans released are preliminary, and while some cost-cutting reforms may go into effect almost immediately, many others, such as the Department of Treasury's paperless initiative, will be a long-term effort. To have a truly meaningful impact on

The George Washington University Regulatory Studies Center

www.RegulatoryStudies.gwu.edu – 202-994-7543, Fax: 202-994-6792 – RegulatoryStudies@gwu.edu

regulatory policy in Washington, it will be imperative that agencies follow through on these plans and adhere to the regulatory principles conveyed in E.O. 13563 in their future rulemaking, taking steps to:

1. Expand public participation and increase transparency in the rulemaking process.
2. [“Harmonize, simplify, and coordinate rules”](#) to reduce complexity and redundancy, which obstruct innovation.
3. Quantify expected and actual consequences and conduct cost-benefit analysis to evaluate proposed and existing regulations.
4. Adopt flexible regulatory approaches whenever possible that preserve freedom of choice.

At our conference on May 20, Sunstein called particular attention to this last principle, noting how “provision of information and public warnings, or default rules” can serve to advance public health, safety and welfare while also promoting liberty and costing far less than more forceful, burdensome rules.

Government regulations can be politically divisive and often spur hyper-partisan debate. But people on both sides of the aisle can get behind this initiative to eliminate unnecessary, excessive red tape and wasteful requirements so that private businesses and state and local governments can spend more resources on producing real goods and services. With any luck, we just might see more examples of this “culture change” in Washington towards greater innovation and reliance on well-reasoned, evidence-based analysis in policymaking. And that can only be a good thing – for both public discourse and public welfare.