

WHAT TRUMP MEANS FOR REGULATION

by Stuart Shapiro, Rutgers University

REPUBLICANS PLAN TO DISMANTLE REGULATIONS

President Trump has pledged to repeal [75% of regulations](#). While this is impossible, the Republican Congress has also targeted regulations.

Through executive action or new law, Trump and Congress may soon do significant damage to the rules, regulations, and enforcement procedures established over the past 45 years by presidents of both parties. Trump may repeal some regulations, weaken enforcement of others, and defund regulatory agencies. The House of Representatives has already passed and sent to the president several regulatory reform bills including the Regulations by the Executive In Need of Scrutiny (REINS) Act and the Regulatory Accountability Act (RAA) that would make it harder for future administrations to issue regulations.

Rules and regulations have both costs and benefits. Abandoning regulation means not just reducing costs on businesses but also giving up on benefits to people in public health, protection of the environment, and the restriction of fraudulent practices that hurt many citizens, and especially the most vulnerable among us. Sometimes, as in rules against insider trading or polluting the environment, the costs are borne just by a small number of actors while the gains are widely shared. Those actors have much to gain from reducing the reach of new rules.

FOUR APPROACHES TO GETTING RID OF REGULATION

There are several methods to repealing regulations and changing the rule-making process.

How the Trump Administration Repeals Regulations

While it will not be easy for Trump to get rid of regulations issued by the Obama Administration, it is possible. On January 30th, Trump [signed an executive order](#) that requires executive departments and agencies to cut at least two regulations for every new one introduced. For regulations already in effect (the vast majority of them), Trump's agencies would have to start a "rulemaking" process to repeal them. This involves publishing a proposed repeal in the *Federal Register*, accepting public comments on the proposal, and then responding to the comments and finalizing the repeal. Each effort to repeal a significant regulation will take at least a year. Then the Administration will have to defend the repeal in court.

WHAT EXPERTS SAY:

"Regulations help people live longer healthier lives. Any attempt to dismantle them should take this benefit into account, not just the costs of regulation."

– Professor Stuart Shapiro
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"Congressional Republicans' focus on regulatory costs gives little or no attention to benefits. For example, a pending bill would prohibit agencies from issuing new rules without repealing existing rules to offset the costs of the new regulation. This ignores the possibility that the benefits of a new rule, say, in improving health or reducing fraud, might far exceed any new regulatory 'burden.'"

– Professor Peter Shane
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"Regulations are the 'fine print' of our legislative process. They elaborate on the laws passed by Congress and are adopted only after extensive consultations with people and groups affected by them. They demonstrably often save lives and tend to have positive economic consequences. The notion that regulations are 'job killers' is propaganda promoted by business lobbies."

–Distinguished Senior Fellow Michael Lipsky
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How Congress Overturns Regulations

In most cases, Congress needs to pass a law to overturn a regulation. As long as the filibuster exists, passing such laws will require sixty votes in the Senate. Rules issued by the Obama Administration after June 2016 are subject to the Congressional Review Act, which gives Congress the authority to overturn a regulation with a simple majority vote without the possibility of a Senate filibuster. They only have sixty session days to do this, however, and it takes ten hours of legislative time in the Senate to debate each resolution.

Regulations In Need of Scrutiny (REINS) Act

While the Congressional Review Act allows Congress to overturn regulations from the executive branch, the REINS Act flips that on its head. For regulations estimated to impose \$100 million or more in costs to the economy, the REINS Act requires Congress to approve them before they go into effect. Passing legislation in Congress is not easy. Requiring Congress to pass a bill to approve a regulation makes it much less likely that important regulations will be issued. This bill also shifts power from the executive branch to the legislative branch, so it is unclear how President Trump would react to it.

Regulatory Accountability Act

The Regulatory Accountability Act is a compilation of many changes to the rule-making process that Republicans in Congress have been trying to pass for years. It adds a series of procedures that make it more burdensome for agencies to issue regulations and easier for regulated industries to stop rules they oppose. Requiring additional steps for agencies has not stopped regulation in the past, but this act has so [many procedures](#) and so many veto points that it will likely make future administrations think twice before creating new rules.

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THE BENEFITS OF REGULATION

Regulation Provides Economic Net Benefits

- Reversing regulations is likely to have net costs. The benefits of regulations issued over the past ten years [have been estimated](#) at \$271 to \$873 billion while the costs have been estimated as falling between \$75 billion and \$111 billion.
- Many of these benefits come in the form of prevented premature death. Regulations have extended [tens of thousands of lives](#) and prevented hundreds of thousands of illnesses and accidents.
- Even if regulations are not repealed, if President Trump suspends enforcement of regulation or defunds regulatory agencies, these benefits (including the lives saved) are less likely to be achieved.

Regulations Protect the Environment

- [Carbon emissions dropped by 10%](#) between 2005 and 2013 and are on track to drop 22-27% from 2005 levels by 2025. Reversal of the Clean Power Plan, fuel efficiency standards, and energy appliance standards would threaten these targets and threaten the Paris agreement on climate change.
- The Environmental Protection Agency enforces minimum safety standards for drinking water. Water contaminants cause significant health risks, as evidenced by children in communities like Flint, Michigan [suffering from toxic levels of lead](#).

Regulations Protect Consumers in the Financial Sector

- Large banks have increased their capital on hand as a result of regulations in Dodd-Frank, making it more likely [they will be able to respond to a future financial crisis](#) and less likely that people will lose their savings and homes.
- [The Consumer Financial Protection Bureau](#) has ensured the restitution of \$11.7 billion to 27 million consumers. A Trump effort to weaken the agency would eliminate protections for consumers such as mandatory disclosures and prosecutions for deception. This would reduce incentives for lenders to behave responsibly. It would also cut short the Bureau's efforts in governing payday lending and protecting consumers from fraud in prepaid cards, overdraft fees and auto lending.