Insight

Costs and Benefits of Targeted EPA Reforms

SAM BATKINS | MARCH 16, 2017

With the signature of President Trump, three of the Environmental Protection Agency's (EPA) most controversial rules could face significant amendments or outright repeal. The Waters of the United States rule (WOTUS), the Clean Power Plan (CPP), and recent methane standards all face the prospect of courts striking them down or another round of rulemaking leading to rescission. According to American Action Forum (AAF) research, if wholly repealed, on paper savings from the three rules could approach $13.2 billion in total costs, $9.3 billion in annual costs, and reduce nearly one million paperwork burden hours. With talks of reforming the latest round of CAFE vehicle efficiency standards, annual cost savings could jump to $13.5 billion (at least $4.2 billion from CAFE).

From this list, the CPP is the most recognized regulation with the largest economic impact. Among all Obama-era rules, it is the third most expensive by annual costs ($8.4 billion) and by benefits (approximately $42 billion). When it was finalized, regulators admitted it could lead to a 48 percent decline in coal generation and 34,000 potential job losses. Assuming one energy job supports 3.7 additional jobs, then the total employment loss could approach 125,800 fewer jobs. However, the EPA stressed that it thought the CPP would be a job creator.

Full repeal of the CPP might not save all of the expected costs because even though the rule has been stayed by the Supreme Court, there are doubtless still some early sunk costs. Mandatory emissions cuts don't begin until 2022, so using the $8.4 billion figure might serve as a better measure of expected annual savings. This figure is hardly trivial, and even though one regulation rarely moves the needle for economic growth, the CPP serves as one of the few possible macroeconomic regulations. However, critics of repeal will doubtless mention the $42 billion in potential foregone benefits, $20 billion from Climate Change mitigation and $22 billion in clean air benefits. A significant revision of the CPP with a lower

"Social Cost of Carbon" could drastically change the climate benefits, although the clean air benefits could remain.

On February 28, 2017, President Trump signed an executive order directing EPA to review the WOTUS rule and, "publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law." Given public statements and general Congressional unease over the rulemaking, it appears that WOTUS is headed for repeal, pending legal action.

The costs and benefits of WOTUS are not as clear as other major rulemakings. For instance, the actual text of the rule didn't list costs and benefits, but instead pointed readers to a separate economic analysis. There, regulators omitted a figure for net present value costs and instead provided an annual figure for burdens: $462 million. However, industry and other critics note the $462 million figure is woefully underestimated and the actual economic impact will be much larger. As for benefits, the previous administration listed $572 million.

Finally, EPA's rule for controlling methane and volatile organic compounds (VOC) from oil and gas wells drew more than 7,000 comments when it was proposed and could be reexamined as well. By 2025, EPA seeks to reduce 510,000 tons of methane, equivalent to 12.7 million tons of carbon dioxide, and 210,000 tons of VOC. The costs for this measure are $320 million in 2020 and $530 million in 2025, but no mention of a net present value figure. In addition, significantly amending or repealing the rule could generate nearly 100,000 hours of paperwork savings.

Courts

The immediate lingering issue with two of these rules is their status in the courts. There are a range of possibilities, including a final disposition at the U.S. Supreme Court, but the administration is hopeful the lower courts reviewing WOTUS and CPP rule against the statutory case for both rules. The administration could then choose to drop appeals to higher courts and the regulatory actions would likely whither, barring an outside group intervening.

For WOTUS and CPP, courts could uphold both measures, forcing a protracted scenario contemplated in the executive order. For example, if the Supreme Court or another court upholds the rules, the administration will then have to build a case for amending or repealing the measures. Then, it will offer a lengthy proposed rule, invite public comments for roughly 60 days, and then issue a final rule after examining and responding to comments. With both measures, any final rule repealing them entirely will probably result in legal action by progressive groups.

Timeline

How long will the process take to repeal CPP, WOTUS, the methane rule, and perhaps CAFE? Using previous implementation as a guide, here are the rule "lifetimes" (from initial notice of rulemaking in the Unified Agenda to final publication in the Federal Register) for the four measures during the Obama Administration:

- CPP: 4.3 years
- WOTUS: 3.4 years
- Methane: 1.5 years
- CAFE: 1.3 years
- **Average**: 2.6 years

Completely unwinding these rules will probably take just as long as the average time it took to implement them, especially considering the legal challenges that will meet any full repeal. As for the specific timing, the administration is likely to release its regulatory agenda for the spring sometime in May. If everything is on schedule, EPA will provide a timetable for issuing proposed rules for CPP, WOTUS, and methane. It's likely there won't be proposed rules to rescind earlier versions until the end of this year or early next year, with 60 to 90-day comment periods to follow. Broadly, the administration will probably be happy if they can amend these measures by the next presidential election in roughly four years.

Conclusion

Undoing regulations will likely take as long as implementing them in the first instance. However, if the administration is successful, there could be nearly $10 billion in annual regulatory cost savings. Before then, courts, the public, progressive groups, and industry will all weigh-in on the merits of reform. If successful, these savings could mark one of the greatest deregulatory periods since the Reagan Administration.