



Insight

Lame Duck Regulatory Deluge Could Top \$100 Billion

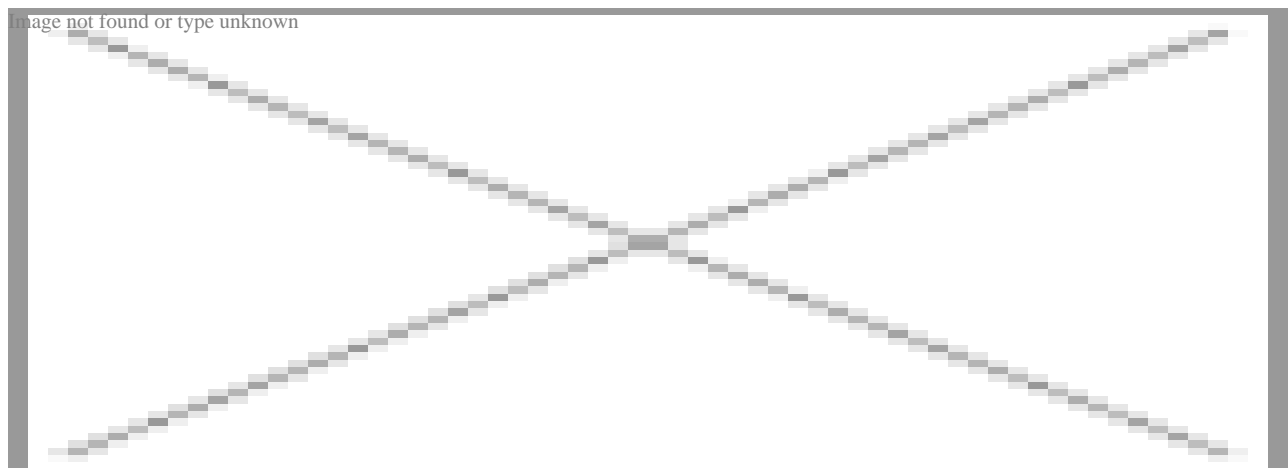
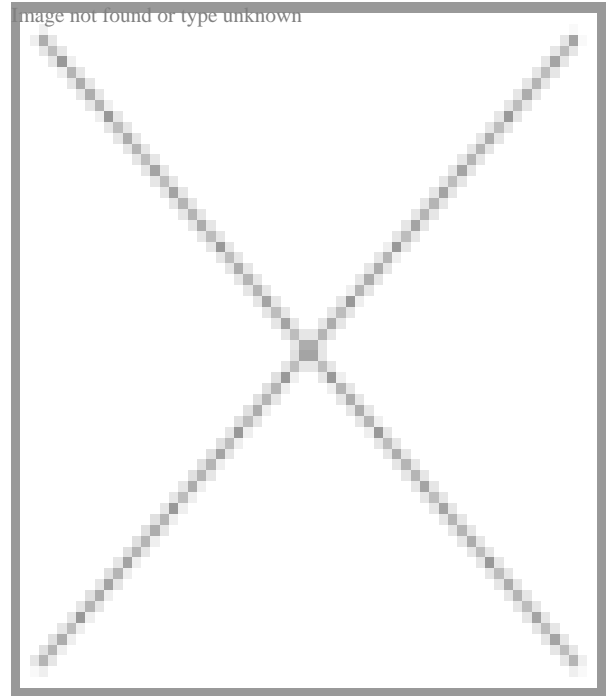
SAM BATKINS | NOVEMBER 27, 2012

The growing cost of regulations has been hidden from the headlines behind the [fiscal cliff](#), but they should not be ignored. Typically, regulations are sent to the White House, reviewed for one to two months, and then sent back to the agency for comments and publication.

Current law generally dictates that a regulation should not be at the White House longer than 90 days. However, as demonstrated below, more than 80 percent of all currently reviewed “regulatory actions” have been at the White House for more than 90 days. The Office of Information and Regulatory Affairs (OIRA) admits 84 percent of EPA rules have been delayed and 100 percent of energy regulations have, for some reason, been under review for more than 90 days.

Moreover, the recent election season has created a bottleneck of “economically significant” regulations (those with an impact on the economy of \$100 million or more). To compare the current regulatory build-up at the White House, the American

Action Forum looked at similar trends during re-election years, notably 2004. During the first ten months of 2012, the administration reviewed 352 regulations, and the average review time for significant regulations was 72 days. Compare to 2004, when the White House reviewed more regulations, 515, and the average review time was only 34 days for economically significant rules. Prior administrations have reviewed more rules in half of the time.



There are 25 significant rules at the White House now, 9 of which have been there since 2011, and dozens of other rules scheduled for publication this fall that have been held back for any number of reasons. One plausible scenario is politics. Many of the pending regulations are controversial, expensive to implement, and could reinforce the perception that the Administration “over-regulates.”

For example, the Affordable Care Act (ACA) created two rulemakings mandating that vending machines and restaurants display nutritional information. The proposed version of the menu labeling regulation was expanded to include grocery stores and virtually all food service chains. The total cost for these two pending ACA rules is more than \$1.1 billion, with 1.4 million paperwork burden hours. Both rules are scheduled for release this month.

<u>Possible Midnight Regulations</u>		
<u>Regulation</u>	<u>Scheduled Release</u>	<u>Cost</u>
Final Importer Carrier Requirements	10/2012	\$70 Billion
Proposed Workplace Dust Regulations	2/2012	\$5.5 Billion
Final Rearview Camera Vehicle Safety Standards	1/2012	\$2.7 Billion
Final “Boiler MACT” Rule for Major Sources	4/2012	\$1.5 Billion
Final Menu Labeling Requirements under the ACA	11/2012	\$757 Million
Unique Device ID for Medical Devices	TBD	\$589 Million
Final Labeling for Vending Machines under the ACA	11/2012	\$421 Million
Final Fracking Rule for Federal Lands	TBD	\$377 Million
Final Particulate Matter (Soot) Rules	TBD	\$69 Million
Sound for Hybrid Vehicles	7/2012	N/A
Four Proposed Energy Efficiency Standards	12/19/2011-03/2012	N/A
17 Other “Economically Significant” Regulations	TBD	N/A
<u>Possible High-End Cost</u>	-	<u>\$106 Billion</u>