



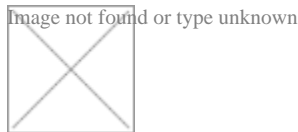
Insight

White House Report on Regulation Drastically Understates Costs

SAM BATKINS | OCTOBER 27, 2015

Recently, the White House released its tardy and [obscure report](#) from the Office of Information and Regulatory Affairs (OIRA) outlining the “Benefits and Costs of Federal Regulation” for FY 2014.

Based on initial calculations from the American Action Forum (AAF), [we predicted](#) approximately \$4.5 billion in new annual costs and \$20 billion in benefits. This compares to OIRA’s range of \$3 to \$4.4 billion in costs and \$9.8 to \$22.8 billion in benefits, within AAF’s ranges. However, if the OIRA report included more than just its thirteen listed regulations, the actual cost figure would be \$14.4 billion, or roughly three times the “official” amount.



As the graph above reveals, FY 2012 broke records in terms of new regulatory burdens, even by OIRA’s math. The most recent year, FY 2014, exceeded last year, but is still one of the lowest cost figures since FY 2006. With the Clean Power Plan in the books and a final ozone rule, expect the final two reports from the Obama Administration to increase costs significantly.

The \$4.4 billion figure for 2014 might appear low, but it does not represent all regulatory costs and benefits for the fiscal year, and even the administration acknowledges this reality. The report on regulation merely examines all major rules that monetize both costs and benefits. For example, an expensive Dodd-Frank rule or a health care regulation that lacks benefit data will not be tallied in the annual figures.

AAF [predicted](#) the administration would likely analyze just 13 major rules (the actual number OIRA included), or three-tenths of one percent of all federal rules published during the fiscal year (3,581 final rules). For comparison, according to the Government Accountability Office (GAO), there were [79 major rules published](#), so OIRA is still just summing data from 16 percent of all major rules. Below are the 13 rules OIRA highlighted from FY 2014 (annualized costs in 2010 dollars):

<u>Regulation</u>	<u>Costs (in millions)</u>	<u>Benefits (in millions)</u>
EPA’s Tier 3 Fuel Rule	\$1,470	\$12,100

<u>Regulation</u>	<u>Costs (in millions)</u>	<u>Benefits (in millions)</u>
NHTSA's Rear Visibility Regulation for Cars	\$924	\$595
DOE's Efficiency Standards for Electric Motors	\$490	\$1,901
DOE's Efficiency Standards for Coolers	\$485	\$1,122
DOE's Efficiency Standards for Furnace Fans	\$340	\$1,644
EPA's Cooling Water Intake Rule	\$291	\$28
DOE's Efficiency Standards for Refrigerators	\$246	\$960
DOE's Efficiency Standards for Power Supplies	\$141	\$361
OSHA's Electrical Protective Equipment Rule	\$47	\$170
DOE's Efficiency Standards for Lamp Fixtures	\$44	\$187
DOL's Coal Dust Measure	\$26	\$18
NHTSA's Vehicle Crash Protection Regulation	\$7	\$124
CMS's Burden Reduction Rule	-\$606	
Totals	\$3,905	\$19,210

Readers might note that there are two rules on the list where the costs exceed benefits. This, despite President Obama's executive order demanding that agencies "adopt a regulation only upon a reasoned determination that its benefits justify its costs." Both the [rear visibility standards](#) and the [cooling water intake](#) rule have costs that far exceed benefits. As noted above, the costs for the cooling water rule will exceed benefits by a factor of ten.

Obviously, OIRA's tally is a small fraction of total federal rulemaking, but the administration will claim that the report captures a "vast majority" of costs and benefits. For benefits, this might be true, as few rules monetize benefits, but for costs, the reported total will be just a slice of total burdens. OIRA's report never tallies all costs and benefits reported in the Federal Register, just the small portion of major rules that monetize both costs and benefits.

AAF examined every final rule published in FY 2014 and found \$14.4 billion in annualized costs (\$15.1 billion in current dollars) and \$19.4 billion in annualized benefits (\$20 billion in current dollars). Thus, OIRA underreports costs by more than 320 percent, compared to a benefit figure right in line with actual figures. Although OIRA will report benefits that are the "vast majority" of the published figure, the report's methodology will exclude billions of dollars in costs. This week's report officially stated approximately \$4.4

billion in costs, but the actual results are \$14.4 billion, a significant difference.

Below is a snapshot of major rules that OIRA did not include in its estimate of total costs and benefits.

<u>Regulation</u>	<u>Costs (in millions)</u>	<u>Paperwork Hours</u>
Volcker Rule	\$4,122	2,392,440
Derivatives Clearing Regulations	\$462	7,790
Integrated Mortgage Disclosures	\$260	-8,450,000
Regulatory Capital Rules	\$203	
Mental Health Parity Regulations	\$190	39,958

Looking at AAF’s sample of all regulations with quantified burdens in FY 2014 (more than 320), it’s easy to see how OIRA’s math is dependent on Tier 3. If a court were to strike down the rule, annualized burdens (in 2010 dollars) would fall to \$12.9 billion, but benefits would drop to \$7.3 billion. Thus, without Tier 3, costs would exceed benefits by roughly 76 percent, a far cry from what OIRA trumpets to the public.

For the first time since the [2012 report](#), the administration included a rule that appears to violate its own methodology. Generally, the monetized figure is supposed to include rules “with estimates of both annual benefits and costs.” The administration included a deregulatory rule from Health and Human Services (HHS), but by the report’s own admission, there are no listed benefits. Presumably, these benefits are covered in the cost reduction section, but it’s still puzzling why OIRA sought to violate its own guidance. Perhaps, this was to reduce overall costs from FY 2014. Currently, the administration can boast a benefit-cost ratio of almost 5:1. Exclude the HHS rule and the ratio falls to 4:1.

There is also the issue of OIRA including a coal dust rule that contains benefits and costs less than \$100 million annually. All other rules on the list have benefits or costs exceeding \$100 million annually, but OIRA selectively included the coal dust rule for some reason. For example, FY 2014 contained 22 regulations that both monetized costs and benefits, but the coal dust rule was the only regulation included where the monetized values failed to exceed \$100 million annually. This rule doesn’t tip the government-wide benefit-cost analysis in any meaningful way, so it’s odd to see its inclusion.

CONCLUSION

The real story of the draft report is that it’s eight months late and OIRA underreports costs by nearly \$10 billion. OIRA simply did not follow the “Regulatory Right to Know Act.” As [AAF wrote](#) previously, the report on costs and benefits should be submitted with the fiscal budget (temporally). The administration “shall prepare and submit to Congress, with the budget ... an estimate of the total costs of federal rules and paperwork.” Instead, the administration waited until the fourth quarter of the year to issue a rather unremarkable report. It includes rules with costs exceeding benefits, also in violation of general guidance, and it misrepresents the benefit-cost

ratio. OIRA might report \$4.4 billion in total costs, but the actual figure is closer to \$14.4 billion.