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Are Regulations Stifling US Industry?

by Steve Minter

Mar. 14, 2013

Marlin Steel Wire President Drew Greenblatt: "I can attest that poorly designed regulations and duplicative or unnecessary paperwork requirements create real costs that affect manufacturers' bottom lines."

The United States needs progress on climate change, Dow (IW 500/22) CEO Andrew Liveris told a manufacturing conference recently, but he wasn't talking about reducing greenhouse gases. He was describing the business climate in the U.S. and the problem of "complex and expensive regulations stifling America."

"Dow has over 60 agencies monitoring it," he said. "I'm sure I could do with 50, or 30."

Manufacturing leaders such as Liveris are quick to point out that they are not against all regulations, but they argue that companies are increasingly confronted by a complex array of regulations that impose ever higher costs on U.S. producers. At a time when the nation needs to strengthen its competitiveness, they warn, regulations instead result in unintended consequences such as lower productivity, less employment, fewer exports and less innovation.

"No single regulation or regulatory activity is going to deter innovation by itself, just like no single pebble is going to affect a stream. But if you throw in enough small pebbles, you can dam up the stream," says Michael Mandel, an economist with the Progressive Policy Institute. "Similarly, add enough rules, regulations and requirements, and suddenly innovation begins to look a lot less attractive."

"I can attest that poorly designed regulations and duplicative or unnecessary paperwork requirements create real costs that affect manufacturers' bottom lines," Drew Greenblatt, the president and owner of Marlin Steel Wire Products, testified before a House subcommittee on Feb. 28.

As an example, he related how the company, with 32 employees and $5 million in sales in 2012, had received a letter in 2010 from the Treasury Department imposing a $15,000 fine because Marlin Steel Wire omitted "a third signature on a 20-page form when we created a 401(k) plan for our employees." After several weeks of communication, the company eventually paid a smaller penalty, but Greenblatt said "valuable resources were diverted away from our business activities because of a missed signature on a form."

While federal regulations pose a challenge even for large companies, they can be particularly daunting for smaller firms and especially burdensome on small manufacturers. A 2010 study by the U.S. Small Business Administration's Office of Advocacy found that regulatory costs averaged $8,086 per employee for all companies. But for all manufacturers, the average cost was $14,070 per employee. For manufacturers with 20 or fewer employees, the study found the average cost was $28,316 per employee.

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Picking Up the Pace?

When asked what the top challenges facing the Obama administration and the Congress were, 76.4% of executives told the NAM/IndustryWeek Survey of Manufacturers last December that the burden of government regulations needed to be reduced.

Since 1981, the federal government has issued 2,183 regulations affecting manufacturing, according to a study by NERA Economic Consulting commissioned by the Manufacturers Alliance for Productivity and Innovation (MAPI). Of that total, 235 are considered "major" regulations, with compliance costs of $100 million or more. The study estimates that these regulations cost the economy from $265 billion to $726 billion a year in direct compliance costs.

Manufacturing Bears the Largest Regulatory Burden

(In 2009 Dollars. 1=highest burden; 5=lowest burden)

Business Sector	Cost Per Firm (Dollars)	Cost Per Firm (Rank)	Cost Per Employee (Dollars)	Cost Per Employee (Rank)	Cost / Payroll (Percent)	Cost / Payroll (Rank)
Manufacturing	688,944	1	14,070	2	29	2
Other	188,704	2	14,992	1	31	1
Services	129,912	3	7,235	3	15	4
Health Care	116,326	4	4,221	5	10	5
Trade	109,970	5	5,289	4	16	3

The study also warned that the pace of regulation is picking up. It noted that the Clinton administration issued an average of 36 major regulations annually, the Bush administration averaged 45, and the Obama administration is averaging 72 major regulations each year.

Just in January, according to the American Action Forum, the federal government added $12 billion in costs and nearly 12 million hours of paperwork burden. In February, the group warned, rules such as the transparency report final rules under the Affordable Care Act and EPA regional haze requirements could add $15.8 billion in cost burdens. At that rate, AAF estimated, the government could add $138 billion in regulatory costs in 2013.

While business groups have warned that the Obama administration is unleashing a regulatory "tsunami," the Center for Effective Government (formerly OMB Watch) has called it more of a "soft wave." The group analyzed data from the OMB's Office of Information and Regulatory Analysis (OIRA) and found that in the first 42 months of each administration, the Bush administration in its first term published 1,060 final rules, compared to 1,771 in the first Clinton term and 1,002 in the first Obama term.

The center found that the Obama administration had indeed issued more significant regulations but that nearly half (97 of 200) were required by legislation or judicial order. And it noted that because of the lengthy rulemaking process, many regulations extend over several administrations.

For example, EPA's greenhouse gas rule was first proposed in 1999. In 2003, the Bush administration's EPA refused to issue a finding of endangerment to the public, which would have required rulemaking under the Clean Air Act. In 2007, the Supreme Court overruled the EPA decision and a subsequent ruling by a federal appeals court required EPA to make another determination. In 2009, the Obama EPA ruled that greenhouse gases endangered public health. EPA then issued two economically significant regulations implementing the ruling.

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