

Trump wants to scrap two regulations for each new one adopted

By Steven Mufson

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President Trump signed an order Monday aimed at cutting regulations on businesses, saying that agencies should eliminate at least two regulations for each new one.

The White House later released the text of the order, which added that the cost of any new regulation should be offset by eliminating regulations with the same costs to businesses. It excluded regulations regarding the military.

The impact of the order was difficult to judge based on the president's remarks. It could be difficult to implement under current law and would concentrate greater power in the Office of Management and Budget, which already reviews federal regulations.

Moreover, any effort to scrap a regulation triggers its own process, complete with draft rules, comment periods, and regulation rewriting. That process can be subject to litigation. At the least, Trump's proposal would add a new time-consuming requirement for any new congressional legislation or agency regulation on topics as varied as banking, health care, environment, labor conditions and more.

Trump signed the document — which he called “a big one” — at his desk in the Oval Office surrounded by nine small-business owners, who earlier this morning met in the Roosevelt Room.

“This will be the largest ever cut by far in terms of regulations,” Trump said. “If you have a regulation you want, number one we’re

not going to approve it because it's already been approved probably in 17 different forms. But if we do, the only way you have a chance is we have to knock out two regulations for every new regulation. So if there's a new regulation, they have to knock out two. But it goes way beyond that."

Taking aim at government regulation is a perennial sport in Washington. Ronald Reagan attacked government regulation, but Democrats have criticized excessive regulations too. In 1993, then-Vice President Al Gore made "reinventing government" one of his main portfolios, at one point lamenting that there were 10 pages of regulations about government ashtrays, one of which he shattered on "Late Night with David Letterman."

Business groups applauded this latest move. But experts on government policy said Trump's formulation made little sense. William Gale, a tax and fiscal policy expert at the Brookings Institution, said "the number of regulations is not the key. It's how onerous regulations are. This seems like a totally nonsensical constraint to me."

Moreover, many departments impose regulations that have costs for businesses but benefits for individuals.

Ken Kimmell, president of the Union of Concerned Scientists, called the executive order "absurd, imposing a Sophie's Choice on federal agencies. If, for example, the Environmental Protection Agency wants to issue a new rule to protect kids from mercury exposure, will it need to get rid of two other science-based rules, such as limiting lead in drinking water and cutting pollution from school buses?"

Kimmell added that Trump's order was "also likely illegal. Congress has not called upon EPA to choose between clean air and clean water, and the president cannot do this by executive fiat."

Other government regulations often taken for granted include Food and Drug Administration requirements for calorie counts in restaurants, Federal Aviation Administration regulations on aircraft safety, EPA regulations on automobile fuel efficiency, and Treasury regula-

tions on banking standards. Many businesses, however, call federal regulations burdensome and costly.

Trump's order directs the Office of Management and Budget to provide guidance on how to estimate costs and set standards for what qualifies as new and offsetting regulations. Trump advisers, who briefed White House reporters on background, said the administration would establish a new management regime — “a strong structural process” — to handle the task.

White House spokesman Sean Spicer said that while this year the cost of any new regulation must be completely offset by those eliminated, beginning in 2018 each agency would have a cost cap that could be set incrementally higher by the director of OMB.

“Every year, over-regulation costs our economy billions of dollars and reduces the wealth of every American household,” Spicer said

Jim Tozzi, a former head of OMB's Office of Information and Regulatory Affairs and now head of the nongovernmental Center for Regulatory Effectiveness, said that Trump's proposal would require a lot of analytical work.

“It is not a trivial undertaking at all,” Tozzi said.

He said existing regulations, many of them quite old, may have costs much different from the original estimates. Updating those estimates would be “a huge undertaking,” he said. Tozzi favors a federal budget for new regulations alone.

“It's extraordinary. That's all I can say,” said Tom McGarity, a law professor at the University of Texas-Austin who focuses on environmental law and the regulatory process. “It is amazingly ham-handed. Because it applies to every regulation. It's not limited to major regulations.”

McGarity said there doesn't seem to be much of a way to challenge the executive order. Trump can do this under laws such as the Administrative Procedures Act of 1946, he said.

Trump said the move would help both large and small businesses. "Regulation has been horrible for big business, but it's been worse for small business," he said, noting that small businesses cannot hire the talent and compliance personnel that larger businesses do.

"There will be regulation, there will be control, but it will be a normalized control where you can open your business and expand your business very easily and that's what our country has been all about," Trump said. He said he hoped to eliminate 75 percent of government regulations.

Administration members who attended the signing included White House Counsel Donald McGahn, Chief of Staff Reince Priebus, senior adviser Jared Kushner, Domestic Policy Council Director Andrew Bremberg and National Economic Council Director Gary Cohn.

Trump's nominee for OMB director, Rep. Mick Mulvaney (R-S.C.), is awaiting confirmation. The position for OMB's Office of Information and Regulatory Affairs has not been filled.

— *Chris Mooney contributed to this report.*