REMAPPING DEBATE
Asking "Why" and "Why Not"

Job-killing regulations? Opponents fail to support claims with evidence

Original Reporting | By James Lardner | Regulation

January 25, 2011 — House Republicans and the President jockeyed last week to demonstrate their opposition to "bad" regulations. House majority leader Eric Cantor was confrontational, rallying fellow-Republicans for an assault on "the job-killing regulations that have been pursued by this Administration." President Obama struck a more nuanced note; while insisting that some regulations play an important and constructive role, he voiced irritation over a subset of rules that he described as wasteful, redundant, or "just plain dumb." He added that he had directed the Office of Management and Budget to undertake a systematic review of those that "stifle job creation and make our economy less competitive."

> It turns out, however, that it is easier to generate provocative rhetoric on this topic than to provide historical evidence for the proposition that regulations do, in fact, kill jobs.

These exchanges left plenty of room, of course, for struggle over the particulars of regulating the Internet, food safety, drugs, coal mining, oil drilling, and financial derivatives, among other zones of disagreement. Yet the President seemed almost as eager as his opponents to slam the door on a broader question: Do regulations actually "kill jobs"? Is there an inevitable tension, as the President suggested in a Wall Street Journal op-ed, between the health, safety, social, and environmental goals of regulation, on the one hand, and job creation, on the other?

The idea is widely taken for granted. "Job-killing regulation" has become not only a mantra of today's Republicans, but also the marketing pitch for a host of plans to have Congress exercise preemptive powers over federal rule-making and enforcement efforts.

It turns out, however, that it is easier to generate provocative rhetoric on this topic than to provide historical evidence for the proposition that regulations do, in fact, kill jobs. Through repeated inquiry, Remapping Debate established that, at least in Washington, vociferous opponents of regulation are often unable or unwilling to offer any such evidence, even in the area of regulation — environmental protection — that is the ground zero of current Republican fury.

Crying wolf

In 1990, congressional Democrats, along with moderate Republicans and the administration of President George H.W. Bush, came together to amend the Clean Air Act for the purpose of creating a cap and trade program to reduce the sulfur dioxide emissions responsible for the problem of acid rain. The National Association of Manufacturers warned at the time that the 1990 law would achieve "the dubious distinction of moving the United States towards the status of a second-class industrial power by the end of the century." That same year, the Business Roundtable commissioned a study that foresaw job losses of at least 200,000 and possibly as many as 2 million.

Such apprehensions led the law's framers to include a $50 million retraining fund for displaced workers. Yet four years later, only 2,363 displaced workers, all of them coal miners, had applied for aid in the belief that their unemployment had been caused by the act.

Studies of the 1990 amendments to the Clean Air Act, by observers within government and without, have generally agreed that it produced surprisingly quick results at surprisingly low cost.

Even the EPA, environmental groups say, has consistently overestimated the economic costs of its rulemaking. Looking back on the first ten years of the nation's experience with the 1990 program, the agency found a total loss of 4,000 coal miner jobs, as opposed to the 15,000 it had forecast. The great majority of the losses, the EPA concluded, were the result of mechanization and productivity increases, not regulation.

Studies of the 1990 Act, by observers within government and without, have generally agreed that it produced surprisingly quick results at surprisingly low cost.

The dollar costs of environmental regulation, according to Eban Goodstein, an economist who has written extensively on the subject, have typically been too small — no more than about 2 percent of overall production costs — to cause a company to consider relocating to a foreign country. When companies do make that decision, Goodstein says, they are motivated by the pursuit of lower labor and health-coverage costs, not by the prospect of escaping the expense of regulatory compliance.

Goodstein points out that the 1990 amendments to the Clean Air Act did not, beyond modest losses in coal industry employment, have any significant net negative job impact, and certainly nothing remotely of the scale predicted by the Business Roundtable.

He asserts that scary job-loss predictions have been consistently overstated for several reasons, including the time that companies are typically given to adjust; during the transition period, he says, they develop methods of compliance that are often not only less costly but more effective than the ones that existed when the rule was first promulgated. A key abatement technology in the sulfur dioxide case, for example, were the "scrubbers" that came to be used by the nation's electrical-power plants. They turned out to be significantly more effective than experts had projected, removing upwards of 95 percent of the sulfur dioxide, according to the World Resources Institute, a Washington-based environmental think tank.

But the biggest weakness of most of the alarming studies, according to Goodstein and others, has been their failure to fully examine the job-producing results of compliance. The anti-regulation camp wants "people to believe that the money spent complying with regulations is poured down a sewer and is never seen again," says Sidney Shapiro, a regulatory scholar and law professor at Wake Forest University.

> The new chairman of the Energy and Commerce Committee, Rep. Fred Upton (R-MI), has vowed to resist what he calls the EPA's "unconstitutional power grab that will kill millions of jobs."

Laurie Johnson, chief economist at the Natural Resources Defense Council, says that selling pollution control equipment, and transporting, installing, and maintaining it, translates into "a lot of income, GDP, and jobs…Environmental protection and cleanup is labor-intensive work," Johnson says.

The Business Roundtable's 1990 study explicitly ignored the upside, offering an estimate of gross job losses, not net losses. But the main effect of the 1990 Clean Air amendments, says Goodstein, was to shift employment from one area to another — in the first place, from high-sulfur Eastern coal to low-sulfur Western coal. That meant job losses in eastern coal mines accompanied by modest job gains in western mines and more substantial gains in the railroad industry.

This time it will really be terrible

Rep. John Carter of Texas has introduced a resolution under the Congressional Review Act to bar the EPA from implementing rules, announced last August, that would compel the Portland cement industry to reduce its levels of mercury and particle pollution. That pollution has been linked to a range of serious health problems, including asthma, irregular heartbeat, heart attacks, and damage to fetal and child brain development.

In an interview with Remapping Debate last week, Carter stressed the jobs threat posed by these rules. He said that while he supports tougher standards, "as does the industry itself," the EPA's current proposals did not provide the industry with the flexibility for a "reasonable compliance process."

Cement makers have advised Carter that it will cost as much as $3.8 billion to meet the new standards; the EPA puts the price tag at slightly under $1 billion. Either way, Carter told Remapping Debate, it's big money for an industry with a net worth of $10 billion — enough that "you have to start really saying, can we really be in this country? Are our choices better in Mexico or in China or someplace else? Or are we going to spent $3.8 billion just to be able to make these products inside the continental United States."

Carter acknowledged in the interview, however, that he could not point to any case of past job-destroying regulation. The only data he possessed, he said, involved the Portland cement industry, and in that case, he said frankly, he was relying on figures generated by the industry itself.

Evidence not forthcoming

In September, the EPA formally announced greenhouse gas emission limits for new and modified power plants, and said it would begin to draft rules for existing plants, to be announced by Nov. 2012 and put into effect gradually over succeeding years. Since that announcement, a number of Republican legislators have introduced bills designed to delay or block EPA action.

The new chairman of the Energy and Commerce Committee, Rep. Fred Upton (R-MI), has not endorsed any of these measures. In a recent statement, however, Upton portrayed the EPA as an agency with "its foot firmly on the throat of our economic recovery." By one means or another, Upton has vowed to resist what he calls an "unconstitutional power grab that will kill millions of jobs."

Remapping Debate asked Rep. Upton both for evidence of the threat posed by the current EPA proposal, and for past instances of environmental regulation that had been responsible for large-scale job losses. In the middle of last week, his office promised that responses would be forthcoming promptly. At press time, however, nothing had been produced.

Remapping Debate put the same questions to a series of other opponents of regulation, with similar results (see bottom box on next page).

Rep. Mike Simpson of Idaho, who has characterized the EPA as "the scariest agency in the federal government, an agency run amok," did respond to Remapping Debate's questions by email. In that response, Simpson spoke generally of being told by "company after company, big and small…how they are sitting on capital rather than creating jobs or investing in the growth of their businesses because they don't know how EPA's regulations are going to affect them." He did not, however, address the request for current or historical evidence of economic harm.

Don Norman, chief economist of the Machinery and Applied Products Institute, is a critic of the EPA's efforts to regulate greenhouse gases who does acknowledge the historic success and cost-effectiveness of the Clean Air Act. "I think environmental regulation is a good thing," he said. "As living standards rise, people tend to demand more of it. The question is, where do you draw the line?" Norman argues that in its current initiatives, the EPA is trying to move from an area with large potential for improvements at low cost, toward one where the costs will be high and the gains smaller.

Norman is the author of an Oct. 2010 study, funded in part by the American Petroleum Institute, that predicts a net loss of 7.3 million jobs by the year 2020 if the EPA is permitted to proceed with regulation of greenhouse gases. Since its publication, the study has been cited by several opponents of such regulation. "When the EPA first came along," he said, they sort of picked the low-hanging fruit, and the incremental cost of achieving significant environmental gains was pretty low. The concern is that as you go on and successfully tighten environmental regulations, the incremental cost rises rapidly…"

Norman acknowledged that he could not cite a past example of large, regulation-linked job losses. "You'd have to ask an environmental specialist about that," he said. Norman pointed out that his own

Show us the evidence

Remapping Debate invited several prominent opponents of regulation, in and out of government, to provide evidence of EPA regulations that "killed" jobs. Each of the following was apparently unable or unwilling to do so:

- Margo Thorning, chief economist of the American Council for Capital Formation and the author of a 2010 study that predicted a loss of 2.4 million jobs if the Waxman-Markey cap and trade bill were enacted and implemented.
- Rosario Palmieri, vice president for infrastructure, legal and regulatory policy at the National Association of Manufacturers, which commissioned the ACCF study and which, on its website, declares the EPA's proposals a threat to "manufacturers, businesses and jobs throughout America."
- Nicole V. Crain and William M. Crain, co-authors of a widely cited study — done for the Small Business Administration's Office of Advocacy — putting the total annual cost of all regulation at $1.7 trillion — a figure far higher than most such assessments.
- Rep. Darrell Issa (R-CA), the new chairman of the Oversight and Government Reform committee, who has announced an inquiry into the "impact of government hyperregulation on job creation."
- Rep. Geoff Davis (R-KY), the prime House sponsor of the REINS Act, which, by requiring congressional approval of every major rule " before it could be enforced on the American people and businesses," aims to "rein in the costly overreach of federal agencies that stifles job creation and hinders economic growth."
- Rep. Marsha Blackburn (R-TN), whose Free Industry Act would amend the Clean Air Act to declare that nothing in that law "shall be treated as authorizing or requiring the regulation of climate change or global warming."

study had not involved original research, relying instead on raw data from a separate research project — an analysis, by NERA Economic Consulting (a global economic consulting firm) of the economic impact of greenhouse gas regulation on 11 states.

Coal-fired power plant in Conesville, Ohio. For the time being, EPA limits on greenhouse-gas emissions will apply only to new facilities or plants undergoing major modification. Industry concerns center on the problem of modifying older plants like this one. Rules for such plants will probably not go into force until 2015 or 2016, the EPA says.

Norman, who said that it should be beyond argument that environmental regulation both creates some jobs and eliminates others, said that his and NERA's work had sought to account for both. He went on to say, however, that the question of net gain or loss is inextricably tied to differing assumptions about the benefit-cost ratio of activities undertaken for the sake of regulatory compliance versus the benefit-cost ratio of other business activity.

If estimates from the EPA or environmentalists properly capture the job-catalyzing impact of regulation, he said, then regulation would indeed have striking net benefits. But, like many others critical of regulation, Norman believes that the EPA and its allies exaggerate the job-creating impact of regulation, and that economic activity uninfluenced by regulation can be presumed to be more productive. Indeed, in an analogy employed by Norman to illustrate this point, the regulation-linked activity had no value at all: "I can throw a brick into a window and create jobs for a window company," Norman said, "but the person spending the money for a new window now has less to spend on other goods and services and that means jobs will be lost elsewhere."

An alternative Republican view

Why, despite the absence of supporting evidence, do so many people believe that regulation will have catastrophic economic results? Rep. Carter acknowledged that he got his data on the cement industry from the industry. That's fairly common, says former Congressman Sherwood Boehlert, a Republican who served on the House Science Committee (now known as the Science, Space and Technology Committee) from 1981 to 2006, and was its chairman for the last five of those years. "No business wants any regulation — it's inconvenient."

Another difficulty, Boehlert says, is that modern legislators don't always have the time or the desire to listen to opinions that diverge from the ones they already hold. "Most members of Congress are like one-armed paper-hangers — they've got 58 things to do every day," he says. "So it's easy to go online and read some commentary or get a snippet from a radio talk show, and you tend to believe what you hear."

It's been a source of frustration to Boehlert that many of his former colleagues don't grasp the potential economic benefits of regulation.

"Some of the countries with the strongest, strictest environmental regulations have had some of the best economic growth," Boehlert says.

"We're importing a lot of pollution-control products from other nations. Why aren't we creating them and exporting them to other nations? And look what happened to the auto industry. Month-after-month, and year-after-year, the percentage of international automobile sales for GM, Chrysler and Ford were going down, and Toyota, Hyundai and Honda were going up. What was the difference? Both were selling style. But where Detroit was selling power, these others were selling economy and fuel efficiency."

The U.S. companies, he says, "fought every step of the way, and they had to get a bailout…They're coming back now, and you know what they're doing? They're making more fuel-efficient vehicles. One reason is because they're required to."

This content originally appeared at http://remappingdebate.org/article/job-killing-regulations-opponents-fail-support-claims-evidence