

# Regulations & Red Tape

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While policymakers have already taken some positive steps during COVID-19, they should double down on reforms that can empower every person to contribute to the economy and put us on the path to economic recovery. Many of the barriers that hindered the government's ability to quickly respond to the health care demands of the COVID-19 pandemic are the same barriers that may prevent our economy from recovering in force: layers of overburdensome, top-down regulatory restrictions. Congress can take immediate action to help clear the way for people to get back to work, get businesses up and running, and ensure that our country emerges with a more robust economy.

## OVERVIEW

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The COVID-19 pandemic has exposed a tragic reality: decades of unchecked regulatory accumulation have made government unresponsive to the needs of the American people. Our current regulatory state is outdated, overly burdensome, and harmful. Smart regulatory reform can improve outcomes and create an economy that works for all. The best way to pursue smart regulatory reform is through systematic, across-the-board reduction of existing rules that are unnecessary, ineffective, overly burdensome, or simply counterproductive. Today more than ever, we should not let the size and scope of the administrative state stifle opportunity or chill innovation.

## Congress Should:

### REMOVE BARRIERS TO JUMPSTART THE ECONOMY

Congress should suspend, rescind or substantially amend laws that would hinder our economic recovery, including the Renewable Fuel Standard, the Jones Act and the National Environmental Policy Act. These policies create obstacles that make it harder and more expensive to move goods throughout the United States and build critical infrastructure.

### MAKE REGULATORY CHANGES PERMANENT

Congress should pass legislation to make permanent COVID-19 related regulatory changes, absent an affirmative vote from Congress. Two proposals that accomplish this goal are *H.R. 6396*, which would amend, suspend, or repeal major regulations identified by agencies as inhibiting economic relief, unless Congress votes to reinstate them, and the *Coronavirus Regulatory Repeal Act (H.R.6691)*, which would permanently rescind regulations suspended during the pandemic, unless a new Federal Regulatory Review Commission recommends the regulation should not be repealed and a law is enacted to confirm this recommendation.

**SEEK FEEDBACK ON FEDERAL REGULATIONS INHIBITING COVID-19 RESPONSE AND ECONOMIC RECOVERY**

Congress should require all federal agencies to immediately establish COVID-19 websites with dockets to seek comments on existing regulations inhibiting disease response and subsequent economic recovery, followed by a strict deregulatory requirement to suspend, waive, or rescind some or all of these regulations. Deregulatory requirements should utilize streamlined processes and should not provide traditional exemptions or waivers for health or safety regulations.

**EXPAND LEGISLATIVE ACCOUNTABILITY FOR REGULATIONS**

Congress should consider expanding the *REINS Act* or Congressional Review Act (CRA) to cover a broader suite of new regulations, rather than simply those above certain cost thresholds. Enacting and expanding the *REINS Act* would improve the regulatory climate and provide certainty for workers and businesses. This legislation would require Congress to approve all major regulations before they take effect. Congress should also continue to utilize the CRA, which establishes an expedited legislative process for review of major regulations within a specified period and prohibits agencies from promulgating substantially similar rules in the future.

**SUPPORT THE SMALL BUSINESS REGULATORY FLEXIBILITY IMPROVEMENTS ACT (S. 1120)**

This bill requires federal agencies to evaluate the full impacts of proposed rules on small businesses during the rulemaking process. By closing loopholes and requiring agencies to transparently account for the regulatory toll their rules could have on small businesses, this legislation could help free entrepreneurs from unnecessary burdens and better position them to help the economy recover.

**CODIFY A RED TAPE REDUCTION AND REGULATORY BUDGET PROGRAM.**

Congress should codify Trump Administration regulatory reform executive orders, including Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs and Executive Order 13777 on Enforcing the Regulatory Reform Agenda. This could include passage of the *Lessening Regulatory Costs and Establishing a Federal Regulatory Budget Act (H.R. 575)*, and the *RED Tape Act (S. 441)*, which would establish regulatory baselines for each federal agency, set date-certain targets to reduce regulatory burdens, and codify one-in-two-out requirements. These bills hold regulators accountable by implementing a mechanism that triggers budgetary or pay-for-performance consequences for agencies and regulators that do not meet red tape goals.

**INSTITUTE RETROSPECTIVE REVIEW AND ACCOUNTABILITY REQUIREMENTS**

In order to ensure that federal regulations achieve their goals, Congress should pass the *SMART Act (S. 1420)*, bipartisan legislation that would require agencies, when publishing a proposed or final major rule, to include a framework for assessing whether the rule achieves its regulatory objective. An agency must assess a rule in the time frame included in the framework. The assessment must compare the rule's anticipated and actual benefits and costs.

**SUNSET NEW OR EXISTING REGULATIONS.**

To reduce unnecessary regulations, Congress should pass legislation like the *Article I Restoration Act (H.R. 3617)*, which would automatically sunset certain new regulations after three years unless Congress votes to reaffirm the regulation.

**REFORM ADMINISTRATIVE PROCEDURES AND DEREGULATORY PROCESS**

This could include passage of the *Regulatory Accountability Act (S. 3208)* or suspending requirements under the Administrative Procedures Act and Executive Order 12866 for red tape reduction. Doing so would require agencies to consider alternatives to a given regulation and require them to select the least burdensome option. It would also require agencies to use best science in promulgating a rule, require public hearings for the highest cost rulemaking, and increase transparency by requiring agencies to provide advance notice and plain-language summaries of proposed rules.

**PASS THE EARLY PARTICIPATION IN REGULATIONS ACT (S. 1419)**

This bipartisan legislation would allow for a more transparent, collaborative, and informed process for new major federal regulations and force agencies to consider if a regulation is even necessary.

**Congress Should Not:**

**ADD MORE REGULATORY BURDENS TO AMERICAN WORKERS, BUSINESS AND FAMILIES**

Congress should refrain from enacting legislation that adds regulatory burdens to the economy. Discussions around the CLEAN Future Act, and similar Green New Deal-type legislation should be discontinued. Congress should instead prioritize reforms that aid economic recovery by systematically eliminating rules that are unnecessary, ineffective, or overly burdensome.