Appendix: Studies Contradict Claims that Regulations Reduce Employment

The leading argument in the assault on regulations has been that they are responsible for hindering employment—or, less delicately, for “killing” jobs.

But studies, reports of actual business leaders and historical data tell the opposite story. In fact, regulations tend to assist in job creation on balance, yield benefits far in excess of their costs, and are not to blame for slowing the economic recovery resulting from the Great Recession of 2008.

This is not to suggest that regulations promise to cure unemployment by themselves. At their heart, regulations are intended to protect the health and safety of the public and to ensure fair play in the marketplace. But because regulations often require investment and spur improvements in products and processes, they also tend to provide an ancillary benefit of increasing employment.

A comprehensive treatise on regulation’s effect on employment or the economy is beyond the scope of this book. That issue has been one of central fault lines in our political discourse for decades and has been the subject of innumerable studies. This section reviews some of the most relevant recent research and data on the subject.

Key Data Points Undermine the Claim That Regulations Are Hindering Our Current Economic Recovery

The Economic Policy Institute (EPI) has published several thoughtful studies on the effects of regulations on employment and the economy. Collectively, these studies lead to the conclusion that neither actual regulations nor fear of pending regulations are to blame for slowing the recovery from the Great Recession.

Most fundamentally, EPI has illustrated that this recovery has proceeded about as would be expected in comparison to other recent recoveries. Employment failed to rebound to norms as quickly as from other recent downturns not because private sector businesses failed to hire or invest, but because the hole the Great Recession dug was so deep.

For example, the rate of growth in investment since the recovery began exceeded that of the previous three recoveries. Eight quarters into the current recovery, equipment and software investment as a percentage of GDP had risen by 1.4 percent compared to its level at the end of the recession.[1] That increase was greater than the comparable timeframe for the recoveries commencing in 1982, 1991 and 2001.

Just as the pace of the investment met reasonable expectations, so too did private-sector employment.

Private-sector employment grew 1.1 percent in the first 25 months of the recovery.[2] This slightly trailed the pace of the 1991 recovery, but significantly exceeded that of the 2001 recovery, which actually saw private-sector employment decline. The recovery from the recession of the early-1980s enjoyed dramatically greater job creation, which is not surprising because that recession was induced by the Federal Reserve's decision to curtail the money supply, which raised interest rates. A subsequent reduction in interest rates allowed the economy to flourish.[3]

The theory that regulations are to blame for our current straits also is belied by the level of businesses' deployment of workers already on their payrolls. By August 2011, private sector employees' hours had rebounded to an average of 34.2 hours a week, short of workers' 34.6 hour average in 2007, before the onset of the recession.[4]

That the per-employee number of hours worked during the recovery trailed pre-recession levels undercuts the claim that "uncertainty" over proposed regulations is hindering new hiring. If it were, employers would be making full use of their available capacity to avoid hiring new employees. A far more likely explanation is that flagging demand is to blame.[5]

None of this is to say that regulations are a silver bullet to save the economy in the short term. As EPI concluded in a study on the prospective effects of a regulation to reduce environmental emissions: "The toxics rule is not a jobs program commensurate to the scale of today's unemployment crisis. Rather, it is a hugely valuable program for protecting human life and health that also happens to have modest positive job impacts."[6]

Reports of Business Owners Refute the Claim That Regulations Hinder Employment

Perhaps even more convincing evidence that regulations were not to blame for hindering the recovery are the reports of the businesses—especially small business owners—in whose name the war on regulations has been waged. Actual business leaders do not tend to buy into the anti-regulatory dogma.

Business owners have long been surveyed on the factors that inform their decisions on whether to hire new employees. Their answers to these questions in the aftermath of the Great Recession rebut the claim that regulations are holding back the economy.

The National Federation of Independent Business, the trade association of small businesses, annually asks its members to name "the single most important problem your business faces." Among the choices offered are inflation, taxes, poor sales, quality of labor, interest costs, health insurance costs, the cost of labor, and government regulations.[7]

Since the beginning of the Obama administration, only 13.9 percent of respondents to the NFIB's survey have chosen regulations as their chief problem. Regulation has significantly trailed poor sales (29.6 percent) and taxes (20.8 percent) among business owners' concerns. Regulations have been cited as a chief problem less frequently during the Obama administration than during the presidencies of George H.W. Bush or Bill Clinton, and only slightly more frequently than during the unabashedly deregulatory administrations of Ronald Reagan or George W. Bush.[8]

A survey of 500 hundred small businesses conducted in late 2011 and early 2012 by three organizations representing small business corroborated the NFIB's findings. Only 14 percent of respondents blamed regulations for hindering job creation while 34 percent cited "weak demand."[9]

Meanwhile, 78 percent of respondents said, "Some regulations are important to protect small businesses from unfair competition and to level the playing field with big business"[10] and 93 percent said, "My business can live with some regulation if it is fair, predictable, and reasonable."[11]

Notably, 50 percent of respondents to that survey identified themselves as Republicans, 32 percent as Democrats and 15 percent as independents, suggesting that business owners with Republican-leaning political views do not endorse the efforts of Republican members of Congress to stifle regulations.[12]

A 2012 Gallup survey of small business owners provided further evidence that regulations are not a major concern among business owners. Respondents ranked regulations as just the sixth-highest reason they were not hiring, behind simple "lack of need for new employees," lack of anticipated revenue and overall concern about the state of the economy.[13]

Economists echo the reports of business owners. In July 2011, the *Wall Street Journal* surveyed 53 economists on the reasons for the nation's lagging employment. Sixty-five percent of respondents blamed lacking demand, compared to 27 percent who pointed to uncertainty over the government.[14]

In a 2011 survey of 250 members of the National Association for Business Economics, which includes academic economists and practicing business economists, 80 percent said "the current regulatory environment is good for American businesses and the overall economy."[15]

The examples above mostly concern small businesses, but the reports of large business also contradict the claim that regulations are hurting employment.

In mid-2007, the Bureau of Labor Statistics began asking businesses to provide a reason for mass layoffs. Among the choices provided were "government regulations/interventions" and "lack of demand." In each year from 2008 to 2011, businesses cited lack of demand as the reason behind 30 to 39 percent of layoffs. Regulations were cited as the reason for only 0.2 to 0.4 percent of layoffs.[16]

Many Studies Find That Environmental Regulations Do Not Undercut Job Creation

Innumerous studies have used economic models to quantify the effect of regulations on employment. A comprehensive review of all such studies is well beyond the scope of this project. But this section will review some major studies (and one study compiling several other studies) on an area that has historically been among the most controversial: environmental regulations.

In 2012, EPI concluded that a proposed rule to reduce emissions from power plants would result in a minimum of 84,500 net new jobs. It broke down its findings into three primary categories: the effects resulting from pollution control investments (resulting in 80,500 new jobs); the effects of employment specifically in the utility industry (resulting in 8,000 new jobs); "re-spending multipliers" (resulting in 28,000 new jobs); and the effects of reduced economic demand from slightly higher energy costs (resulting in up to 32,000 lost jobs, which EPI later revised downward).[17]

Josh Bivens, the author of that study wrote in a separate piece that our current economic conditions present one of the most advantageous times to institute clean air rules.

First, Bivens said, companies have more financial capital available during economically depressed periods because opportunities to make investments to expand their businesses are scarce; second, any increases in energy costs resulting from implementation of new rules are unlikely to be passed on to consumers "because of excess supply in the economy"; and third, in the current situation, because profit margins in the U.S. corporate sector are at a 45-year high, meaning that increased costs can easily be absorbed by companies.[18]

EPI's findings of modest job creation from environmental regulations were consistent with many previous studies. In what has widely been cited as a landmark study on the effects of environmental regulations on employment, Richard Morgenstern, *et al.*, in 2002, examined the effects of regulations on four industries: pulp and paper, plastics, petroleum, and steel.[19]

The researchers concluded that the industries, on average, realized a net gain of 1.5 jobs per $1 million in investments for environmental improvements.[20] Similar to the conclusions in the EPI study, the authors did not conclude that environmental regulations offered a dramatic job-creation function. But they concluded that the effects were positive, not negative.

To be fair, many studies have concluded that environmental regulations have resulted in net job losses. In April 2012, the Institute for Policy Integrity issued a report that surveyed 26 studies published between 2008 and 2011 that forecast the effects of proposed environmental laws and regulations on employment. Of these, 15 concluded that the environmental measures would result in overall increases in employment and 11 said there would be job losses.

The authors pointed to the studies' methodologies as a chief determinant of their findings. "Job impact analyses are extremely sensitive to data and model structure," the authors concluded.[21]

Not surprisingly, some of the studies in the Institute for Policy Integrity's review concluded that proposed environmental measures would result in significantly adverse effects on the economy.

For example, in 2009, the conservative Heritage Foundation concluded that the Waxman-Markey bill to reduce greenhouse gas emissions would cost nearly 2 million U.S. jobs by 2012, even though the law's requirements would barely have begun taking effect by then.[22] (Waxman-Markey was approved by the U.S. House of Representatives in 2009 but did not pass in the Senate.) By 2030, Heritage predicted, there would be 1.5 million fewer jobs in the United States and the GDP would be reduced by more than $500 billion because of Waxman-Markey.[23]

Laurie Johnson, the chief economist of the Natural Resources Defense Council, accused Heritage of providing scant details on its methodology and, where such details could be gleaned, of making the most pessimistic decisions.

"No increases in renewables are allowed, and the analysis assumes [carbon capture storage] doesn't get produced in any 'significant quantities,'" Johnson wrote. "Combined with assuming no [improved] energy efficiency, these assumptions guarantee that energy prices for all types of energy will be high, and that there will be a contraction in economic output. Any productivity gains we could earn from improved energy efficiency are assumed away."[24]

The Results of the Clean Air Act Show That Doomsday Forecasts Over Environmental Regulations Should Be Discounted

Analyses of regulations tend to be skewed toward yielding pessimistic forecasts because economists cannot reasonably be expected to anticipate how businesses will adapt to changing requirements. But history has shown that American industry has an uncanny ability to develop more efficient products and processes once given an incentive to do so.

Consider this example, which has many similarities with the proposed Waxman-Markey legislation. In 1990, Congress considered major amendments to the Clean Air Act to reduce emissions of sulfur dioxide and nitrogen oxides. These pollutants were killing lakes and forests, as well as people, and inciting the wrath of Canada, which blamed the United States for more than half of its air pollution.[25]

Legislation was proposed to provide businesses, such as utilities, with permission to emit established amounts of pollutants. Business that exceeded their allotments would have to purchase credits from those that did not. C. Boyden Gray, counsel to President George H.W. Bush, championed the proposal, but his colleagues in the White House recoiled from it.[26]

"I remember [then-White House Chief of Staff] John Sununu blew up, and he said, 'My God, you're going to strangle America,'" Gray recalled years later.[27]

Industry also predicted disastrous consequences. "This study leaves little doubt that a minimum of 200,000 (plus) jobs will be quickly lost, with plants closing in dozens of states," the Business Roundtable wrote. "This number could easily exceed 1 million jobs, and even 2 million jobs at the more extreme assumptions about residual risk."[28]

But after the legislation passed, none of these ominous forecasts materialized, and the measure was profoundly successful at achieving its objectives.

In the first year after the caps took effect, emissions declined far more than predicted. Costs, predicted to be as high as $25 billion a year, came in at $3 billion a year.[29] In 2003, the Office of Management and Budget, or OMB, concluded that the 1990 Clean Air Act program had the largest quantified human health benefits of any federal regulatory program in the previous 10 years, at more than $70 billion annually. OMB pegged the ratio of benefits to costs at more than 40-to-1.[30]

Benefits of Regulations Far Outweigh the Costs

One of the main ways that opponents of regulation distort the debate is by ignoring the benefits of new rules, such as saving lives, preventing illness and yielding cleaner air and water.

Many public interest advocates disagree with requiring a demonstration that benefits will outweigh costs to justify moving forward with proposed public safety regulations because such standards can be prohibitively difficult to meet. Projected costs are typically inflated because formulas do not generally account for industries' ability to develop less expensive solutions.[31] Projected benefits are typically understated because they fail to place a value on guarding against potential harms that are too abstract to quantify.[32]

Imagine, for instance, the benefits that could have been yielded by issuing a rule a decade ago to prevent mortgage lenders from issuing subprime loans to borrowers who could not afford to repay them, or a rule requiring Wall Street derivatives dealers to operate on regulated markets. Such rules almost certainly would have prevented the financial crisis, and likely would have averted the worst of what became the Great Recession. But quantifying these benefits ahead of time would have been impossible.

Nonetheless, cost-benefit analyses consistently show that the benefits of regulations outweigh the costs. For example, in its draft 2012 report to Congress on the economic effects of regulations, OMB estimated aggregate benefits of regulations were between $141 billion and $700 billion while estimated annual costs were between $43.3 billion and $67.3 billion.

The wide ranges in the estimates, especially for benefits, reflect uncertainty over how regulations will manifest themselves. But even at the low end of benefits and the high end of costs, the benefits significantly exceed the costs. In the OMB report, environmental regulations were estimated to have benefits of $84.8 to $565 billion, at a cost of $23.2 to $29.3 billion.[33] Previous years' OMB reports have reached similarly overwhelming estimates on the ratio of regulations' benefits to their costs.

Conclusion

Sensible regulations should not depend on proof that they create jobs in the short term. Their benefit to the public relies primarily on their ability to protect public safety and ensure fair play in the marketplace.

The surfeit of research and data showing that regulations frequently provide a slight lift to employment prove that we do not have to trade economic growth for sensible protections. We can have them both.