CUTTING RED TAPE IN PENNSYLVANIA

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Key Findings

- Pennsylvania enforces 166,219 regulatory restrictions, **making Pennsylvania about 22 percent more regulated than the average state**.
- Recent efforts to significantly reduce regulatory burdens in states and provinces resulted in accelerated economic growth. In British Columbia, **cutting regulatory requirements by 36 percent corresponded with an additional 1 percent growth in gross domestic product** (GDP) each year.
    - If Pennsylvania were to similarly reduce 36 percent of its regulatory requirements, **GDP could increase by an estimated $9.2 billion per year**, with compounded growth in the future.
    - A $9.2 billion increase to GDP is equivalent to approximately **$1,760 per household, and 180,000 new jobs in Pennsylvania**.
- Pennsylvania maintains **33,000 restrictions related to environmental protection and natural resources**, by far the largest area of regulation in the Pennsylvania Code.
- Pennsylvania's **permit guarantee decision policy is too often ignored**, leading to long wait times.

Introduction

Over the past fifty years, the pace of federal regulatory restrictions soared from 400,000 to over one million.[1] States have also been active regulators. Today, the average state enforces 136,262 regulatory restrictions. However, a wide variation in the number of regulatory provisions exists among the states. Idaho, for example, has just 36,612 restrictions, while California has 403,774.[2]

Often overregulation comes from the sheer volume of regulations and the corresponding bane on small businesses to address the complex web of regulations affecting their operations. Red tape is the unnecessary paperwork, forms, hassles, compliance costs, or otherwise counterproductive steps that individual citizens take to comply with government mandates. Excess regulations are a hidden, needless tax.

In recent years, several states have embarked on regulatory reform initiatives to control the growing burden red tape places on their economies.[3] These states include Idaho and Rhode Island, each of which sunset their entire regulatory codes in 2019, as well as Ohio and Virginia, two states that set ambitious goals to reduce regulatory requirements. Virginia, for example, is aiming to meet a 25 percent reduction goal.[4]

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1 QuantGov, "Regulatory Growth and Accumulation: Growth of Federal Regulatory Restrictions over Time, 1970–2019," Mercatus Center at George Mason University, access August 20, 2023, https://www.quantgov.org/federal-regulatory-growth.

2 RegHub, "State RegData Definitive Edition, Regulations," Mercatus Center at George Mason University, accessed May 1, 2023, https://www.reghub.ai/data/bulk.

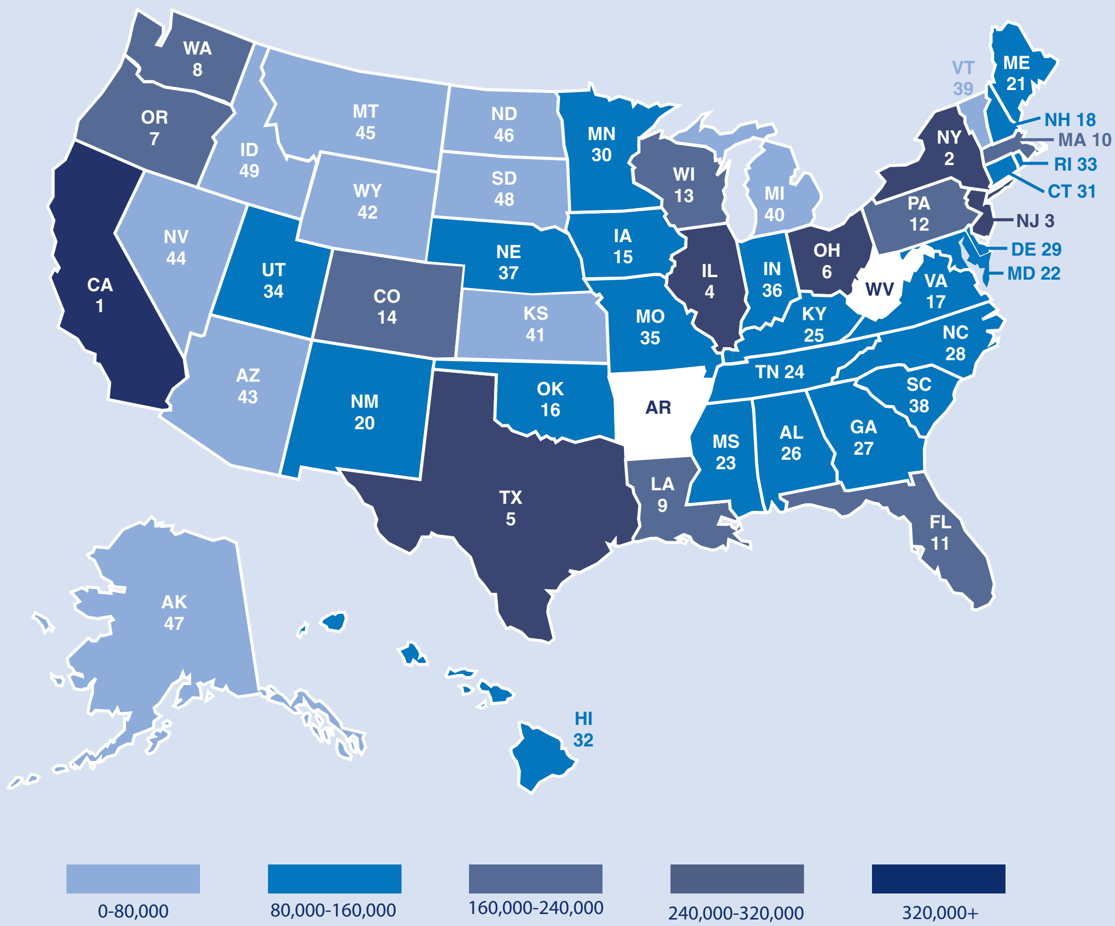
3 James Broughel and Dustin Chambers, "Learning from State Regulatory Streamlining Efforts," (Washington DC: National Governors Association, July 2022), https://www.nga.org/center/publications/learning-from-stateregulatory-streamlining-efforts/.

4 Reeve T. Bull, "A New Approach to Regulatory Budgeting in Virginia," *Regulatory Review*, May 29, 2023, https://www.theregreview.org/2023/05/29/bull-a-new-approach-to-regulatory-budgeting-in-virginia/

As of 2022, there are 166,219 regulatory restrictions in the Pennsylvania Code,[5] about 22 percent more than the average state. It would take approximately 740 hours to read the Pennsylvania Code at a pace of 300 words per minute.[6]

FIGURE 1. REGULATORY BURDEN BY STATE

PENNSYLVANIA IS THE 12TH MOST REGULATED STATE WITH OVER 166,000 SEPARATE REGULATORY RESTRICTIONS



Source: Mercatus Center at George Mason University, “State RegData Project,” https://www.quantgov.org/state-regdata-definitive-edition. No data available for West Virginia and Arkansas.

This report offers a simple overview of the regulatory burden in Pennsylvania and opportunities for reform based on the experiences of other states.

Moreover, it is the first to assemble findings pertinent to Pennsylvania from the “definitive edition” of the Mercatus Center’s State RegData database. The Mercatus Center completed an analysis of the Pennsylvania regulatory code in 2022, and this report compiles and presents those

5 To the reader, the Pennsylvania Code is the commonwealth’s administrative code which includes all of Pennsylvania’s current administrative regulations arranged by subject. See: Commonwealth of Pennsylvania, Pennsylvania Code and Bulletin, https://www.pacodeandbulletin.gov/.

6 RegHub, “State RegData Definitive Edition, Regulations.”

findings alongside other available evidence about Pennsylvania's regulatory volume. The report also extends lessons from the academic literature about the effects of regulations on economic growth to estimate how Pennsylvania's economy could uniquely benefit from regulatory reform.

Pennsylvania is well-positioned to follow the lead of other states currently making headway in reducing regulatory burdens. Regulatory reform that cuts excessive red tape could be just what the state needs to attract new talent and investment and overcome high out-migration.

The Regulatory Environment in Pennsylvania

In 2012, the Mercatus Center at George Mason University launched a project called RegData.[7] RegData solves a simple, yet persistent problem whose solution had evaded researchers of regulation for a long time. In areas like tax or spending policy, it's easy to determine amounts of revenue raised or how much money gets spent on a particular program each year. As a result, high-quality data are available to study the effects of tax and spending policy. By contrast, the same is not true of regulatory policy. Compliance costs borne by businesses, higher prices for consumers, and lower wages for workers are all known effects of regulations, but do not show up on the government's books. Hence, the effects of regulation are hard to measure.

RegData uses text analysis to parse regulatory codes and pull out key information about the volume of regulation, the industries most affected, and the agencies doing the most regulating.

Instead of counting the number of regulations promulgated by agencies, RegData uses a metric called a "regulatory restriction," which refers to instances of the words "shall," "must," "may not," "prohibited," or "required" within legal text.

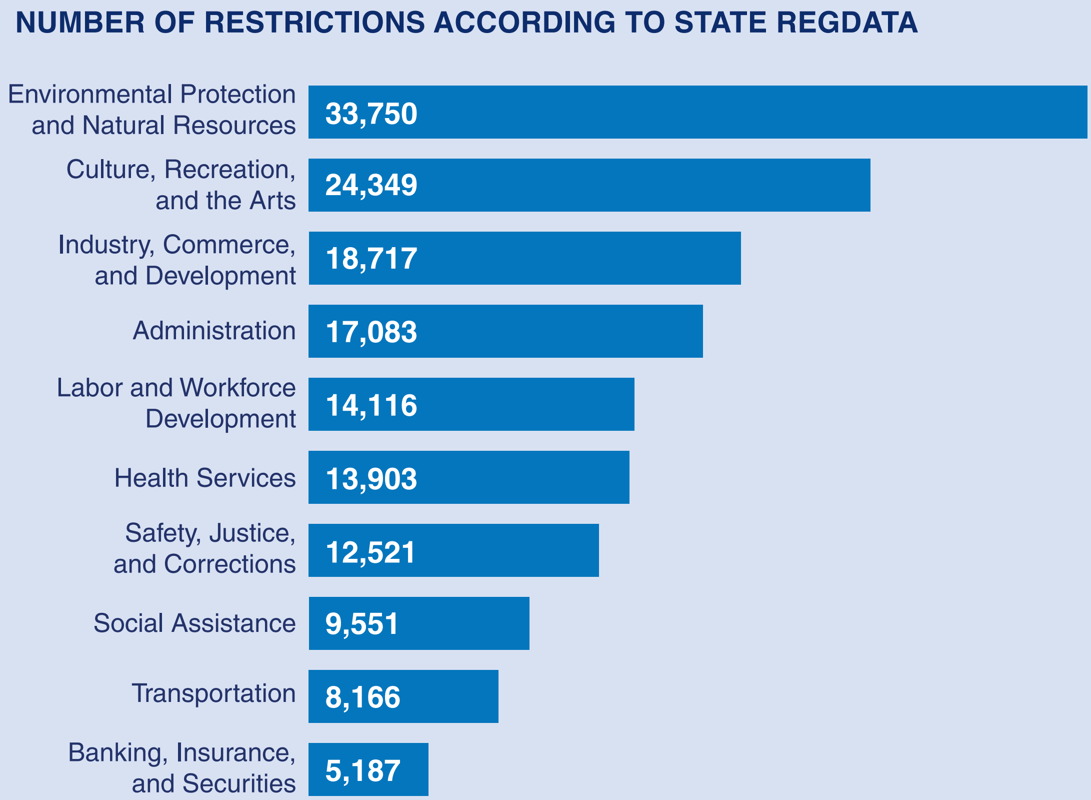
As of 2022, there are 166,219 regulatory restrictions in the Pennsylvania Code and 13.3 million words. It would take approximately 740 hours, or about 18 and a half weeks, to read the entire Pennsylvania Administrative Code, assuming a person spends 40 hours per week reading and reads at a pace of 300 words per minute.

To put these numbers in context, the average state has about 136,262 regulatory restrictions. **So, Pennsylvania is about 22 percent more regulated than the average state in the nation.** However, there is wide variation among the states. The state of Idaho, for example, has just 36,612 restrictions, about 22 percent of Pennsylvania's total. Meanwhile, California has 403,774 restrictions, more than double Pennsylvania.

These aggregate totals mask some of the variations in state rules. A deeper dive into the findings provided by State RegData reveals the different types of regulatory restrictions Pennsylvania regulators impose on the public, including who the rules affect. For example, as Figure 2 shows, **Pennsylvania regulations related to environmental protection and natural resources contain more than 33,700 restrictions, making this, by far, the largest area of regulation in the Pennsylvania Code.** Regulations related to culture, recreation, and the arts come in at a distant second at just over 24,300 restrictions, followed by the nearly 19,000 regulatory restrictions related to industry, commerce, and development.

7 QuantGov, "The History of RegData," Mercatus Center at George Mason University, accessed May 1, 2023, https://www.quantgov.org/history.

FIGURE 2. PENNSYLVANIA TOP AREAS OF GOVERNMENT REGULATIONS

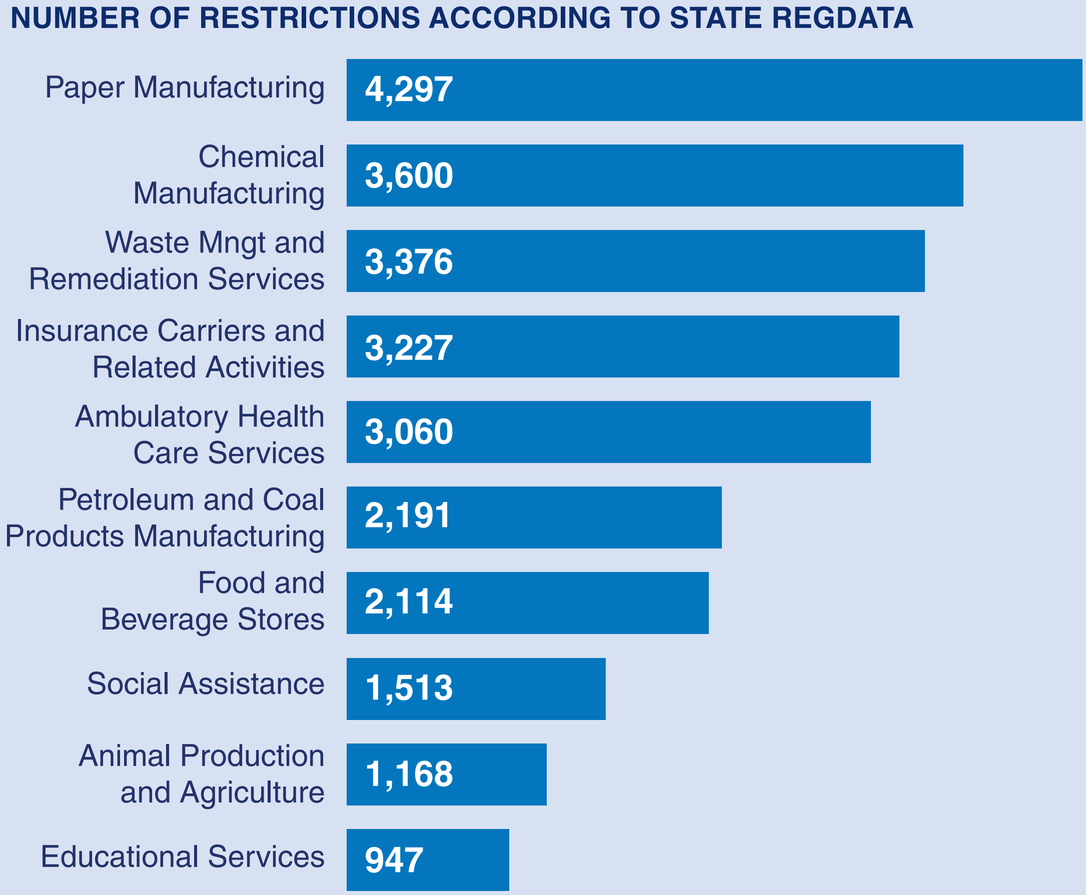


Source: State RegData Definitive Edition, "Pennsylvania," https://www.quantgov.org/state-regdata-definitive-edition.

One of the more innovative aspects of State RegData is the machine learning algorithm that identifies how likely a portion of text in regulation targets a specific industry.[8] Figure 3 presents the top ten most regulated industries in Pennsylvania based on the RegData methodology. Clearly, paper manufacturing is the most regulated industry in Pennsylvania, with nearly 4,300 restrictions targeted at it. Chemical manufacturing and waste management follow to finish up the top three. Overall, the manufacturing, health, energy, and insurance sectors appear to be most regulated by Pennsylvania state regulation.

8 To the reader, for more information about RegData's industry classifier, see Patrick A. Mclaughlin and Oliver Sherouse, "RegData 2.2:A Panel Dataset on US Federal Regulations," *Public Choice* 180, No. 1(2019), 43–55, https://link.springer.com/article/10.1007/s11127-018-0600-y

FIGURE 3. TOP TEN REGULATED INDUSTRIES IN PENNSYLVANIA



Source: State RegData Definitive Edition, "Pennsylvania," https://www.quantgov.org/state-regdata-definitive-edition.

As noted earlier, Pennsylvania is slightly more regulated than the average state in the nation. Among states classified in the Mercatus Center's Mideast region—which includes New York, Pennsylvania, District of Columbia, Delaware, and Maryland—the average number of regulatory restrictions is 167,258. Pennsylvania is about average by this classification (Figure 4).[9]

However, there is a strong association between the size of a state's population and its overall volume of rules. Several factors could explain this relationship. It may be that larger, more populous states have a more diverse economy with more industries, thereby necessitating more regulations. It may also be that there are more financial resources at stake in larger economies, thereby making rent-seeking more lucrative, resulting in more regulation.[10]

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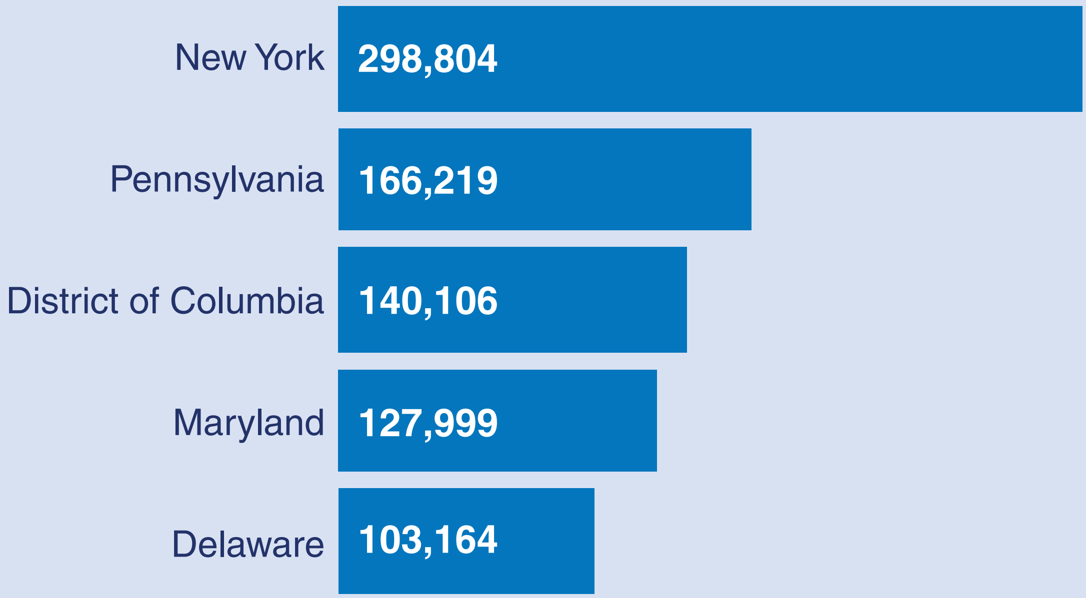
9 Kofi Ampaabeng and James Broughel, Policy Brief (2021): "A Snapshot of Regulation in Mideast States," (Arlington, VA: Mercatus Center at George Mason University, October 25, 2021), https://www.mercatus.org/research/policy-briefs/snapshot-regulation-mideast-states.

10 James Bailey, James Broughel, and Patrick A. McLaughlin, "Larger Polities are More Regulated," *Journal of Public Finance and Public Choice* 36, 2 (2021), 233–43, https://doi.org/10.1332/251569121X16153644407322.

FIGURE 4. STATE REGULATORY RESTRICTIONS IN THE MIDEAST REGION

PENNSYLVANIA RANKS SECOND IN THE REGION



Source: State RegData Definitive Edition Dashboard, https://www.quantgov.org/state-regdata-definitive-edition.

Consequences from Federal Regulations

It is certainly the case that businesses often bear the costs of regulations as well as struggle to comply with them. However, regulations also affect consumers and workers by raising prices, reducing take-home pay, and lowering returns on retirement accounts (e.g., 401k plans). These effects can often be regressive in nature, meaning they disproportionately impact those at the bottom end of income distribution.

A 2022 analysis of the impact of federal regulations on Pennsylvania's economy shows that, across the time period from 1997 to 2017, federal regulations are associated with 187,575 more people living in poverty in Pennsylvania in 2019, 2.9 percent higher income inequality (as measured by the Gini coefficient—a common measure of inequality).[11] A similar earlier study estimated that federal regulations lead to 361 fewer businesses and 5,195 lost jobs each year.[12]

The lack of opportunity created by red tape could help explain why Pennsylvania is growing slower than other states. The average increase in state population over the years 2010 to 2020 was 7.2 percent, while the population for the nation as a whole grew 7.4 percent. However, the increase in Pennsylvania was just 2.4 percent, placing the state in the bottom fifth in terms of

11 Dustin Chambers and Colin O'Reilly, Policy Brief (2022): "The Regressive Effects of Regulations in Pennsylvania," (Arlington, VA: Mercatus Center at George Mason University, April 12, 2022), https://www.mercatus.org/research/policy-briefs/regressive-effects-regulations-pennsylvania-0.

12 Dustin Chambers and Colin O'Reilly, Policy Brief (2020): "The Regressive Effects of Regulations on Pennsylvania," (Arlington, VA: Mercatus Center at George Mason University, December 2020), https://www.mercatus.org/research/policy-briefs/regressive-effects-regulations-pennsylvania.

population growth.[13] According to data from the U.S. Census Bureau, Pennsylvania experienced the fourth-largest total population decline in the country between 2021 and 2022.[14]

State Permitting Rules

A subset of the larger discussions over reducing regulatory restrictions is permitting reform, a priority of governors from both major political parties in recent years. Yet the permitting process for the energy industry remains arduous.

In 2012, then-Gov. Tom Corbett issued an executive order intended to improve the permitting review process at the Department of Environmental Protection (DEP), the main state agency involved in energy permit reviews.[15] And in 2018, Gov. Tom Wolf announced plans for more funding to DEP to reduce backlogs.[16] In January of 2023, Gov. Josh Shapiro signed an executive order that guaranteed a permit refund if a state agency failed to review permits within an established time frame.[17] The Department of State alone identified more than 900 licenses or permits that it is reviewing in response to this policy.[18] The timelines and full list of permits are still under review.

Efforts by the Corbett and Wolf administrations to reduce permit wait times were somewhat successful. The average number of days for a business decision by the DEP in Pennsylvania fell markedly between 2016 and 2019 for well permits and ESCGP-3 surface permits. Wait times for well permits fell from 250 days on average in 2016 to just 23 days in 2019, and over the same time period, the average number of days for a surface permit fell from 450 days to 91 days. These represent declines of 91 percent and 80 percent, respectively.[19]

However, these statistics mask some continuing problems with the permit process. Under current DEP policy, applicants should have a decision in 14 business days for an expedited oil and gas surface permit approval or 43 business days for a standard decision.[20] Further, according to industry groups, "it is not uncommon for decisions on these permits to extend well beyond this timeframe, including in some specific cases we've tracked, 250 days or more."[21] Longer than anticipated permit approval times may stem from loopholes in DEP's Permit Decision Guarantee policy.

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13 U.S Census Bureau, 2010 Census Redistricting Data (Public Law 94-171) Summary File, January 2011, https://www.census.gov/data/datasets/2010/dec/redistricting-file-pl-94-171.html; U.S. Census Bureau, 2020 Census Redistricting Data (P.L. 94-171) Summary File, June 2021, https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html.

14 U.S. Census Bureau, "Growth in U.S. Population Shows Early Indication of Recovery Amid COVID-19 Pandemic" (Press Release Number CB22-214), December 22, 2022, https://www.census.gov/newsroom/press-releases/2022/2022-population-estimates.html.

15 Gov. Tom Corbett, Executive Order No. 2012-11: "Permit Decision Guarantee for the Department of Environmental Protection," July 24, 2012, https://files.dep.state.pa.us/programintegration/permitdecisionguaranteeportalfiles/2012_11_Permit_Decision_Guarantee.pdf.

16 Gov. Tom Wolf, "DEP Taking Action to Reduce Backlogs, Improve Oversight, and Modernize Permit Process," press release, January 2018; Pennsylvania Department of Environmental Protection, Permitting Reform White Paper, January 2018, https://files.dep.state.pa.us/LicensingPermitsCertification/PermitDecisionGuaranteePortalFiles/Permitting_Reform_01262018.pdf.

17 Gov. Josh Shapiro, Executive Order 2023-07: "Building Efficiency in the Commonwealth's Permitting, Licensing, and Certification Processes," January 31, 2023, https://www.governor.pa.gov/wp-content/uploads/2023/01/20230131_EO-2023-07_FINAL_Executed.pdf.

18 Charlotte Keith, "Switch to Pa.'s Corporate Filing System Led to Backlog and Longer Waits for Business Owners," *Spotlight PA*, April 25, 2023, https://www.spotlightpa.org/news/2023/04/pa-business-filings-delayed/.

19 OpenData PA, "Permit Average Days for a Business Decision 2016-Current Annual Statewide Protection" (Dataset: Authorizations under Department of Environmental Protection Permit Decision Guarantee Policy), accessed May 1, 2023, https://data.pa.gov/Energy-and-the-Environment/Permit-Average-days-for-Business-Decision-2016-Cur/r738-5ree/data.

20 Pennsylvania Department of Environmental Protection, Office of Program Integration, "Policy for Implementing the Department of Environmental Protection Permit Review Process and Permit Decision Guarantee," November 2, 2012, https://www.dep.pa.gov/Business/ProgramIntegration/DecisionGuarantee/pages/default.aspx.

21 David Callahan, Marcellus Shale Coalition, Testimony before the Liquefied Natural Gas Task Force, May 19, 2023, https://marcelluscoalition.org/wp-content/uploads/2023/05/May-1923-LNG-Task-Force.pdf.

Another regulatory roadblock for energy companies is the financial requirement for permit applications. Pennsylvania has one of the highest natural gas drilling permit fees in the country at $12,500, with many of its peers charging significantly less for a drilling permit.[22] For example, New Mexico and Ohio charge just $500 for a standard drilling permit, with Ohio charging up to $1,000 for applications covering a township with more than 15,000 people or a municipality.[23, 24] Texas's drilling permit fee ranges from $500–$750 depending on the well depth.[25]

In addition to inconsistent wait times and high fees, permit applicants must also navigate DEP's use of technical guidance documents as de facto regulations. The State RegData database does not consider additional regulatory restrictions outside the administrative code. An example of this is DEP's environmental justice policy, which says DEP will give enhanced scrutiny to certain kinds of permits in any U.S. census tracts that meet a certain number of pollution burdens and socioeconomic factors.[26] The policy encourages permit applicants to host multiple public meetings and publish additional public notices.[27] The Marcellus Shale Coalition noted in a comment letter on DEP's draft environmental justice policy, "The reality is that operators who wish to stay in the good graces of regulators to ensure that permits and other authorizations are timely considered have been conditioned by Department personnel effectively to consider suggestions such as this as regulatory obligations."[28]

Regulation and Economic Growth

Sizeable academic literature exists demonstrating the negative relationship between the volume of regulation in a jurisdiction and economic growth in that region. One can think of regulations using an analogy of dropping pebbles into a stream.[29] The first pebble is insignificant and has no effect on the stream. Creating a pile containing a thousand pebbles might slow the flow of water. Meanwhile, a hundred thousand pebbles would create a dam that blocks the stream altogether.

Regulations work similarly with respect to the economy. A single regulation might sound like a good idea when viewed in isolation, but a hundred thousand regulations in combination together can bring the economy to a halt.

When economists talk about regulations slowing growth, it is usually in reference to changes in GDP. While it does not capture every aspect of life that human beings value, GDP (and GDP per person) tend to correlate with many aspects of well-being, including measures of health, life expectancy, infant mortality, happiness, and so on.

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22 50 Pa.B. 3845, "Unconventional Well Permit Application Fee Amendments," August 1, 2020, https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol50/50-31/1027.html.

23 New Mexico Energy, Minerals, and Natural Resources Department, "Payment and Fees (Q&A)," July 1, 2019, https://www.emnrd.nm.gov/ocd/wp-content/uploads/sites/6/Final-ApplicationfeesFAQ_000.pdf.

24 Ohio Department of Natural Resources, "Oil and Gas Permits, Permit Application," accessed June 23, 2023, https://ohiodnr.gov/buy-and-apply/regulatory-permits/oil-and-gas-permits/permit-application#:~:text=Fees%3A,for%20each%20permit%20application%20submitted.

25 Texas Railroad Commission, "Oil and Gas Fees and Surcharges Table," accessed June 23, 2023, https://www.rrc.texas.gov/oil-and-gas/applications-and-permits/oil-gas-fees-surcharges/.

26 Pennsylvania Department of Environmental Protection, "Pa. Environmental Justice Areas," accessed September 15, 2023, https://www.dep.pa.gov/PublicParticipation/OfficeofEnvironmentalJustice/Pages/PA-Environmental-Justice-Areas.aspx

27 Pennsylvania Department of Environmental Protection, "Environmental Justice Participation Policy."

28 Marcellus Shale Coalition, Letter to DEP Secretary Patrick McDonnell on Draft Environmental Justice Policy (012-0501-002), May 11, 2022, https://marcelluscoalition.org/wp-content/uploads/2022/05/MSC-Comment-Letter-EJ-Policy-Final.pdf.

29 Michael Mandel and Diana Carew, Policy Memo: "Regulatory Improvement Commission: A Politically-Viable Approach to US Regulatory Reform," (Washington DC: Progressive Policy Institute, May 2013), 3, https://www.progressivepolicy.org/wp-content/uploads/2013/05/05.2013-Mandel-Carew_Regulatory-Improvement-Commission_A-Politically-Viable-Approach-to-US-Regulatory-Reform-1.pdf.

A Stanford study from several years ago created an index of variables thought to be important contributors to human welfare, and the authors found that across countries their index had a correlation with GDP per person of about 0.98.[30] This means that the two measures, the index of welfare and GDP per capita, convey similar information, i.e., that market production is one of the better measures of human welfare. In part, this is because production generates the wealth that gives human beings the freedom to pursue the kinds of lives they want.

Economist Robert Hahn and I surveyed the peer-reviewed academic literature that relies on Organization for Economic Co-operation and Development (OECD) and World Bank measures of regulation, and we found a consensus that economic regulations tend to be harmful to economic growth.[31] One published study estimated that federal restrictions alone cost the U.S. economy about $4 trillion annually.[32] That works out to about $13,000 per person in the United States. This may be a conservative estimate—another study estimated the effect at about $39 trillion annually,[33] which implies GDP would be about three times larger today if regulation levels had stayed at the level seen in the mid-20th century. (Note that this does not mean forgoing every regulation added since that time, but that older obsolete regulations would have been removed as new ones were added.)

Reducing regulatory levels that dramatically may sound unrealistic, but it has been done.

BRITISH COLUMBIA

In the early 2000s, the Canadian province of British Columbia undertook a significant regulatory reform effort that, over about a fifteen-year period, resulted in roughly half the province's regulatory requirements being eliminated.[34] In the years leading up to the reforms, British Columbia was a relative laggard in terms of growth, trailing other provinces in Canada in terms of GDP per capita growth. This situation reversed in the years following reforms.[35] A recent study estimated that British Columbia's roughly one-third reduction in regulatory requirements, which occurred in the first few years following reforms, led to an increase in economic growth of about one percentage point annually over the next decade.[36]

If we extend the findings from this study to Pennsylvania, a 1 percent reduction in regulatory restrictions is associated with a roughly 0.028 decrease in the annual growth rate of a jurisdiction. By extension, reducing restrictions by about 36 percent should correspond with an increase in economic growth of about one percentage point annually. **This implies that if Pennsylvania's economy were to react similarly to that of British Columbia, then cutting roughly 55,400**

30 Charles I. Jones and Peter J. Klenow, "Beyond GDP? Welfare across Countries and Time," *American Economic Review* 106, No. 9 (September 2016), 2426–57, https://www.aeaweb.org/articles?id=10.1257/aer.20110236.

31 James Broughel and Robert W. Hahn, "The Impact of Economic Regulation on Growth: Survey and Synthesis," *Regulation & Governance*, published ahead of print, December 28, 2020, https://doi.org/10.1111/rego.12376.

32 Bentley Coffey, Patrick A. McLaughlin, and Pietro Peretto, "The Cumulative Cost of Regulations," *Review of Economic Dynamics 38 (October 2020), 1–21,* https://doi.org/10.1016/j.red.2020.03.004.

33 John W. Dawson and John J. Seater, "Federal Regulation and Aggregate Economic Growth," *Journal of Economic Growth* 18, no. 2 (March 2013), 137–77, http://dx.doi.org/10.1007/s10887-013-9088-y, https://www.researchgate.net/publication/23968096_Federal_Regulation_and_Aggregate_Economic_Growth.

34 Laura Jones, "Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?" (Arlington VA: Mercatus Center at George Mason University, November 11, 2015), 21-23, https://www.mercatus.org/research/research-papers/cutting-red-tape-canada-regulatory-reform-model-united-states.

35 James Broughel, Data Visualization: "Can the United States Replicate the British Columbia Growth Model?" Mercatus Center at George Mason University, May 25, 2017, https://www.mercatus.org/research/data-visualizations/can-united-states-replicate-british-columbia-growth-model.

36 Patrick McLaughlin and Bentley Coffey, Working Paper: "Regulation and Economic Growth, Evidence from British Columbia's Experiment in Regulatory Budgeting," Mercatus Center at George Mason University, June 1, 2021, https://www.mercatus.org/research/working-papers/regulation-and-economic-growth.

restrictions from Pennsylvania's regulatory code, or about one-third of the total, would increase economic growth by about one percentage point annually.

For context, Pennsylvania's state GDP in 2022 was around $923.1 billion.[37] Meanwhile, real GDP growth was about 2.1 percent from 2021 to 2022. **So, a one percentage point increase would have increased GDP growth by about 48 percent last year.** One percentage point of GDP was roughly $9.2 billion in 2022. **Divided amongst Pennsylvania's 5,228,956 households that amounts to an additional $1,760 a year.**[38] And this number could grow as the benefits of growth compound over time.

In 2022, the mean hourly wage for all occupations in Pennsylvania was $28.11,[39] and the average number of hours worked per week for all employees on nonfarm payrolls was 34.3 in 2021.[40] If we assume 52 average weeks of work per year, then one-job equivalent might be valued at $50,137 in Pennsylvania, for 2022. **Thus, a $9.2 billion increase in state GDP could yield 183,497 job equivalents in a single year.** To put this in context, Pennsylvania's workforce consisted of about 5.8 million workers in 2022,[41] an increase in 180,000 jobs would be a roughly 3 percent increase.

Importantly, there are some differences between Pennsylvania and British Columbia that might lead Pennsylvania to experience different outcomes. British Columbia is a Canadian province, while Pennsylvania is a U.S. state. Pennsylvania also has a larger population than British Columbia. Nevertheless, the two may be similar enough in terms of culture and labor force composition to expect some similarities in outcomes.

OHIO AND VIRGINIA

As noted earlier in the introduction, some states are making efforts to reduce regulatory burdens by amounts similar in magnitude as the reductions seen in British Columbia. Ohio and Virginia are two notable examples of states that have set reduction goals of 30 and 25 percent, respectively.[42]

In 2018, Virginia created a regulatory reduction pilot program that required two state agencies to create an inventory of their requirements and then to cut restrictions by 25 percent from baseline levels.[43] Several years later, all state agencies under the state Administrative Process Act had to produce similar counts of their rules, and the pilot program was eventually expanded to include these other agencies.[44]

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37 U.S. Bureau of Economic Analysis, "Economic Profile for Pennsylvania (2022)," March 31, 2023, https://apps.bea.gov/regional/bearfacts/.

38 U.S. Census Bureau, "Pennsylvania: Families and Living Arrangements," accessed August 2, 2023, https://data.census.gov/profile/Pennsylvania?g=040XX00US42; U.S. Census Bureau, "American Community Survey 2021: One-Year Estimates Data Profiles (Pennsylvania)," https://data.census.gov/table?g=040XX00US42&tid=ACSDP1Y2021.DP02.

39 U.S. Bureau of Labor Statistics, "Occupational Employment and Wage Statistics: May 2022 State Occupational Employment and Wage Estimates, Pennsylvania," April 25, 2023 [modification date], https://www.bls.gov/oes/current/oes_pa.htm.

40 U.S. Bureau of Labor Statistics, "State and Metro Area Employment, Hours, and Earnings," accessed August 2, 2023, https://www.bls.gov/sae/tables/annual-average/2021/home.htm.

41 U.S. Bureau of Labor Statistics, "Occupational Employment and Wage Statistics: May 2022 State Occupational Employment and Wage Estimates, Pennsylvania."

42 Broughel and Chambers, "Learning from State Regulatory Streamlining Efforts."

43 James Broughel, "The Mighty Waves of Regulatory Reform: Regulatory Budgets and the Future of Cost-Benefit Analysis," *Business, Entrepreneurship & Tax Law Review* 3, No. 3 (2019), 206–23, https://scholarship.law.missouri.edu/betr/vol3/iss2/3/.

44 Gov. Glen Youngkin, Virginia Executive Directive Number One (2022): "Laying a Strong Foundation for Job Creation and Economic Growth through Targeted Regulatory Reductions," January 15, 2022, https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1---Regulatory-Reduction.pdf.

Ohio passed a law in 2019 requiring state agencies to produce inventories along these lines. In 2022, Ohio used the inventory data to set a statutory goal of reducing restrictions by thirty percent over three years.[45] In addition, Ohio requires every new regulatory restriction to be offset by two repealed restrictions through 2025.[46] In early 2023, Ohio Gov. Mike DeWine put forth a plan to meet the required targets by eliminating duplicative provisions and outdated regulations.[47]

RHODE ISLAND

The state of Rhode Island undertook a regulatory reform effort throughout the administration of Governor Gina Raimondo, who later became Commerce Secretary in the presidential administration of Joe Biden. Raimondo signed a 2015 executive order requiring rules to be accompanied by a cost-benefit analysis and to be submitted to the state Office of Regulatory Reform (ORR) for review.[48] The ORR in turn advised agencies on new cost-benefit analysis requirements and trained over 100 agency staff on how to draft clear regulations and evaluate economic impacts.

Gov. Raimondo also signed an update to the state's Administrative Procedure Act law in 2016.[49] The 2016 legislation put a sunset provision on the administrative rules currently in place, so that rules would have to be refiled to be codified into a uniform state code by January 1, 2019. Rules that were not refiled would expire. A report from ORR notes that at the outset of the reform initiative, there were 1,387 active executive branch agency regulations. State agencies revised, consolidated, or eliminated 77 percent of the regulations.

Other Recommendations

Pennsylvania might want to consider a pay-as-you-go (PAYGO) model for limiting regulatory burdens. Under this system, the state sets limits on the rules or burdens agencies can place on residents, ensuring they do not grow without limit. Texas, for example, has a law that says for every new regulation added to the books imposing a positive cost, a state agency must identify an equivalent amount to reduce in regulatory costs from cutting burdens in existing regulations.[50] Other states have placed caps on counts of rules, for example by requiring that for every new rule added, two or more be eliminated.[51]

In Florida, Gov. Ron DeSantis tasked state agencies with building sunset provisions into regulations (i.e., expiration dates attached to rules).[52] Sunset provisions can be desirable

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45 James Broughel, "The Regulatory Budget in Theory and Practice: Lessons from the U.S. States," *Harvard Journal of Law and Public Policy* 45.1, no. 1 (2022), 11–42, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4235287

46 Ohio Rev. Code § 121.95, "Agency Review of Rules to Identify Restrictions," https://codes.ohio.gov/ohio-revised-code/section-121.95.

47 Office of the Governor, "Governor DeWine, Lt. Governor Husted Announce Plan to Cut One-Third of Ohio Administrative Code," news release, January 2023, https://governor.ohio.gov/media/news-and-media/governor-dewine-lt-governor-husted-announce-plan-to-cut-one-third-of-ohio-administrative-code.

48 Gov. Gina M. Raimondo, Executive Order 15-07: "Improving Rhode Island's Regulatory Climate to Improve Opportunity," February 17, 2015, https://omb.ri.gov/sites/g/files/xkgbur751/files/documents/reform/regulatory-review/07_Regulatory_Climate.pdf.

49 Rhode Island General Assembly, Regular Session 2016, Senate Bill 3015 (as amended): An Act Relating to State Affairs and Government, enacted June 29, 2016, http://webserver.rilin.state.ri.us/PublicLaws/law16/law16203.htm, https://legiscan.com/RI/bill/S3015/2016.

50 Texas Gov't Code Ann. § 2001.0045 (West 2021), "Requirement for Rule Increasing Costs to Regulated Persons," https://texas.public.law/statutes/tex._gov't_code_section_2001.0045.

51 For examples, see Broughel and Chambers, "Learning from State Regulatory Streamlining Efforts."

52 Gov. Ron DeSantis, Letter to Florida Agency Heads, November 11, 2019, https://www.floridahasarighttoknow.myflorida.com/content/download/147113/980326/FINAL_Directive_to_Agencies_11.19.pdf.

because pending expiration dates force agencies to conduct reviews based on need. If not needed, a rule would expire. North Carolina is another state that has a sunset review process for regulations. Every ten years, a review is overseen by the state Rules Review Commission, which is the legislative body that has the authority to set sunset dates for reviewed rules.[53]

Florida and Wisconsin both have legislative veto provisions for regulations that are similar to the Regulations in Need of Scrutiny from the Executive (REINS) Act, which recently passed the U.S. House of Representatives.[54] The state versions of the law say that regulations exceeding a certain cost threshold have to be affirmatively approved by a vote from the legislature before they can go into effect.[55]

The Pennsylvania General Assembly is responding to its regulatory challenges with several similar bills. Senate Bill 188 would require the General Assembly's approval of any regulation whose cost is expected to exceed $1 million annually, known as an economically significant regulation. This bill would ensure that elected representatives have more of a say in regulatory decisions.[56] Senate Bill 350 would establish a digital permit application tracking system and allow third parties to review permits if an agency does not review the application in a specified period.[57] This is similar to an online permitting portal recently set up in Virginia,[58] and would increase transparency and accountability in the permitting process.

Pennsylvania could also pass a constitutional amendment to allow the legislature to vote to overturn an economically significant regulation without the approval of the governor, similar to a provision stripped from Senate Bill 1 in early 2023.[59] Passing a constitutional amendment would allow the legislature to properly assert its authority to vote down regulations. Currently, the governor's veto power neutralizes the General Assembly's ability to disapprove of state regulations.

Conclusion

Pennsylvania is more regulated than the average state. Meanwhile, some of its neighbors, most notably Ohio, are in the midst of regulatory reduction measures that are making them more competitive. While Pennsylvania lawmakers are considering significant reforms, the current regulatory system in the state continues to impose substantial costs on some of the commonwealth's most vulnerable communities.

The academic evidence suggests that reducing regulatory burdens can substantially increase GDP growth and therefore human welfare. There are a number of regulatory streamlining models Pennsylvania policymakers can adopt to achieve faster growth. The question is whether policymakers are willing to take the necessary steps to free Pennsylvanians from the burdens of red tape.

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53 N.C. GEN. STAT. § 150B-21.3A (2017), "Periodic Review and Expiration of Existing Rules," https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_150b/GS_150b-21.3A.pdf.

54 Foundation for Government Accountability, "The Reins Act Passes the House," June 19, 2023, https://thefga.org/blog/the-reins-act-passes-the-house/.

55 FLA. STAT. § 120.541(3) (2010), "Statement of Estimated Regulatory Costs," http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0120/Sections/0120.541.html; WIS. STAT. § 227.139 (2011), "Passage of Bill Required for Certain Rules," https://docs.legis.wisconsin.gov/statutes/statutes/227/ii/139.

56 Sen. John DiSanto, Senate Bill 188, Pennsylvania General Assembly, Regular Session 2023–24, https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=s&type=b&bn=188.

57 Sen. Kristin Phillips-Hill, Senate Bill 350, Pennsylvania General Assembly, Regular Session 2023–24, https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2023&sInd=0&body=S&type=B&bn=350.

58 James Broughel, "Virginia's New Permitting Portal Is A Model For Other States," *Forbes,* June 14, 2023.

59 Sen. Daniel Laughlin, Senate Bill 1, Pennsylvania General Assembly, Regular Session 2023–24, https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2023&sInd=0&body=S&type=B&bn=0001.

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