Statement for the Record

National Association of Manufacturers
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HOUSE OVERSIGHT AND ACCOUNTABILITY FULL COMMITTEE HEARING

"DEATH BY A THOUSAND REGULATIONS: THE BIDEN ADMINISTRATION'S CAMPAIGN TO BURY AMERICA IN RED TAPE"

JUNE 14, 2023

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House Committee on Oversight and Accountability
Full Committee Hearing
"Death by a Thousand Regulations: The Biden Administration's Campaign to Bury America in Red Tape"

June 14, 2023

The National Association of Manufacturers appreciates the opportunity to submit written comments for the record regarding the House Committee on Oversight and Accountability hearing on "Death by a Thousand Regulations: The Biden Administration's Campaign to Bury America in Red Tape."

The NAM is the largest manufacturing association in the U.S., representing companies of all sizes, in every industrial sector and across all 50 states. Manufacturing employs nearly 13 million workers, contributes $2.9 trillion to the U.S. economy annually and has the largest economic multiplier of any major sector.

Our industry is committed to protecting worker and consumer safety, public health and our environment, and manufacturers strongly support regulatory policies designed to support economic growth and adhere to sound principles of science, risk assessment and cost-benefit analysis. The onslaught of new regulations is chilling manufacturing investment, curtailing manufacturers' ability to hire new workers and suppressing wage growth, especially for the small and medium-sized manufacturers that are the backbone of the supply chain.

As of the time of this hearing, the NAM is engaged on approximately 100 regulatory actions affecting the manufacturing industry across nearly every federal agency. According to the NAM's Q2 2023 Manufacturers' Outlook Survey,[1] more than 63% of manufacturers report spending more than **2,000 hours** per year complying with federal regulations, while more than 17% of manufacturers report spending more than **10,000 hours**. That is time that cannot be spent on more productive activities, including delivering products to customers, and it expends resources that otherwise could go toward hiring, raises or capital investments.

There are clear consequences to burdening companies with higher compliance costs. The survey found 65.0% of manufacturers would purchase more capital equipment if their regulatory burden were decreased, with 46.9% specifying that a lower regulatory burden would allow them to increase employee compensation; 43.2% stating that it would allow them to hire more workers; 40.1% stating that it would allow them to make additional investments in research; and 38.1% indicating that a lower burden would allow them to expand their facilities in the U.S. The regulatory onslaught is restricting manufacturers' ability to grow and invest here in the United States.

The cost of complying with regulations can be enormous, particularly when it comes to regulations that impact hiring and retention. The most current data on the cost of regulations shows that the average U.S. company paid $9,991 per employee per year to comply with federal regulations, but the average manufacturer in the United States pays nearly double that amount: **$19,564 per employee per year.** Small manufacturers face an even higher and disproportionate regulatory cost of **$34,671 per employee per year,** which is more than three times the cost to the average U.S. company.[2]

Included as an appendix to this submission are the NAM's principles of effective regulation, which are intended to enable the regulatory system to address legitimate concerns without unreasonably impeding innovation, research, development and product deployment—ultimately supporting manufacturing

[1] National Association of Manufacturers, "*NAM Manufacturers' Outlook Survey, Second Quarter 2023,"* (June 2023), available at https://www.nam.org/wp-content/uploads/2023/03/Manufacturers_Outlook_Survey_Q2_June_2023.pdf
[2] Crain, W. M., and Crain, N. "*The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business*," (September 2014), available at https://www.nam.org/wp-content/uploads/2019/05/Federal-Regulation-Full-Study.pdf

competitiveness. Many recent regulatory actions are inconsistent with these principles, including the following three examples:

- Federal agencies should focus resources on the most cost-effective and least intrusive means to achieve voluntary compliance, but the Securities and Exchange Commission's proposed climate disclosure rule dramatically increases the reporting burden without a corresponding demonstrable increase in public benefits.
- Regulations imposed by the federal government should not hinder the growth and investment opportunities for small and medium-sized manufacturers, but the Environmental Protection Agency's (EPA) PM 2.5 air regulation threatens up to $197.4 billion of economic activity and puts 973,900 current jobs[3] at risk.
- Regulatory programs' success should be measured by outcomes and improvements in economic and social welfare, but the EPA's ethylene oxide restrictions will not only threaten high-paying manufacturing jobs but also but also creates a de facto ban on a preferred method of sterilization for hospitals and medical equipment.

Every day, manufacturers are feeling the real-world effects from the decisions made by regulators. One manufacturer that makes critical raw materials for semiconductors, clean hydrogen and lithium-ion batteries recently announced that they will build a facility that makes materials necessary to produce clean hydrogen in the EU instead of America due to the regulatory uncertainty and difficulty in obtaining permits in a timely matter. Another company was forced to choose between relocating their operations or spending $400 million to meet stringent emissions standards in a locality not in attainment. While planning an investment in the U.S., one manufacturer received more than 600 requests for information from a regulator, totaling more than 40,000 pages. Another manufacturer aptly describes just how complicated the web of regulations can become, citing "contradictions where we have to violate some laws in order to comply with regulations." Sensible regulations are important, but regulations should never result in driving critical industries overseas or making lawbreaking a cost of compliance.

Regulations often come with other costs that are not easily quantifiable. Even when a new regulation is held up or eventually rescinded due to legal or administrative challenges, manufacturers must be prepared for its potential implementation until instructed otherwise. This uncertainty can lead manufacturers to forego other opportunities. The unseen costs of regulation include new team members not hired, facilities not built, investments in new machinery not made and research and development not conducted, to name a few. Communities lose investment, the economy suffers, competitors like China gain an advantage and America's leadership in the world is threatened.

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Our industry has been extraordinarily resilient in recent years, leading the country forward amid global upheaval. Our ability to continue growing and creating jobs and to compete with countries like China is now directly threatened by the federal regulatory barrage. Manufacturers are committed to commonsense legal and regulatory reforms that ensure public health and safety, and we look forward to continuing working with you to find solutions that balance the need for sensible regulations and for manufacturers' continued leadership.

Sincerely,

Jay Timmons
President and CEO

[3] Oxford Economics, "*U.S. Air Quality Standards and the Manufacturing Sector*", (April 2023), available at https://documents.nam.org/ERP/NAM%20Air%20Quality%20Standards%20Analysis.pdf

National Association of Manufacturers
Principles of Effective Regulation

Appropriate regulation of aspects of private enterprise is recognized as a valid function of the federal government and is in the public interest. Such regulations should not unduly hamper the conduct of legitimate business activities.

Executive departments and independent regulatory agencies should engage in periodic review of all their regulations to determine effectiveness, results and continued need for the regulations. Significant regulations should be sunset to force complete review and justification for continuation of the regime. Economic regulations should always be sunset since changes in the marketplace often obviate the need for such rules. All significant proposed regulations should include specific plans for when they will sunset and reviewed for effectiveness and how that effectiveness will be scored.

Congress should use its authority under the Congressional Review Act to prevent the adoption of rules or regulations that are inconsistent with congressional intent, or that go beyond the legislation that the rules or regulations are designed to implement. A Congressional Office of Regulatory Accounting or a Joint Committee on Regulatory Review should be created to provide for periodic review of regulations and enhanced congressional oversight of the regulatory process. Congress should avoid delegating overbroad legislative authority to agencies.

Regulatory programs' success should be measured by outcomes and improvements in economic and social welfare, not by amounts of fines or the number of enforcement actions. Federal agencies should focus resources on the most cost-effective and least intrusive means to achieve voluntary compliance. Compliance assistance programs, especially for small businesses, better serve the public's interest in achieving beneficial outcomes.

Criminal enforcement of regulatory violations should be limited to circumstances where there is knowing and willful intent to violate the rules. With respect to recordkeeping, criminal intent to file an erroneous or incomplete report should not be inferred from the filing of routine paperwork that contains errors or omissions.

Complexity, technological change and innovation in the marketplace mean that efforts to regulate all risk would be unsuccessful or destructive to the economy. Industry self-regulation should be given an opportunity to develop in new areas as the first alternative to government regulation. No regulation should seek or purport to eliminate every possible risk. Regulations should be based on sound science, credible economics and objective risk assessments.

Regulations and supporting material should be written in plain, understandable language.

Independent regulatory agencies should be required to conduct robust cost-benefit analyses of their significant rules and subject their analysis to third-party review through the Office of Information and Regulatory Affairs or a similar governmental entity just as executive branch agencies must do. Consistency across the government in regulatory procedures and analysis would only improve regulatory certainty and the transparency of the process.

As a general principle, agencies should adhere to OMB Circular A-119, which directs agencies to use voluntary consensus standards in lieu of government-unique standards. The use of such standards eliminates the cost to the government of developing its own standards and decreases the cost of procuring goods. It also encourages long-term growth for manufacturing in the U.S. and promotes efficiency and economic competition through the harmonization of standards.

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