



## Manufacturing Jobs Part III: A Costly and Uncertain Regulatory Burden Harms Competitiveness

### Briefly

*Regulations serve an important role in our economy, but if they are too costly, they can have a negative impact. Consequently, cost-benefit analysis of proposed regulations has long been considered a best practice. Federal regulations could cost up to \$2 trillion a year, and regulations are particularly costly for manufacturers. Washington ranks poorly in interstate comparisons of state regulatory burdens.*

*Washington has laws that require analysis and review of regulations, and several governors have made regulatory reform a priority. Streamlining, coordination, and communication have been recurring themes. Efforts haven't always delivered, though, as the State Auditor's Office found in a recent series of performance audits.*

*A number of bills addressing some of these problems have since been adopted nearly unanimously, demonstrating the noncontroversial nature of regulatory reform. Still, the regulatory environment is costly, unpredictable, and untimely. An improved regulatory environment would increase the competitiveness of manufacturing in Washington.*

This is the third in a series of reports on manufacturing in Washington.

The first, "**Rebalancing Priorities: The Case for Manufacturing Jobs Part I**" was published Sept. 18, 2017.

The second, "**Manufacturing Jobs Part II: Education and Workforce Development Strategies to Close the Skills Gap**" was published June 13, 2018.

Regulations serve an important role in our economy. They help to ensure a clean environment, safe workplaces, and fair treatment of employees. But in the aggregate they can also create a drag on the economy. Thus, when implementing regulations, their costs must be considered along with their benefits to determine whether the tradeoff is worthwhile.

Workplace regulations can directly increase the cost of hiring workers. Environmental regulations can increase the cost of siting or operating a facility. Uncertainty and delay in the process contribute to these costs, impacting competitiveness.

As a sector, manufacturing faces a high number of costly regulations. In this series on manufacturing jobs, we've written about the high wages that manufacturing jobs offer and noted that they are important to county economies

statewide. Making regulations more efficient and predictable would increase Washington's manufacturing competitiveness.

### Balancing Costs and Benefits

The federal government has required cost-benefit analysis of regulations for decades. For example, President Reagan's Executive Order 12291 specified, "Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society" (Reagan 1981). As economists Edward Glaeser and Cass Sunstein write, "This kind of analysis is intrinsically neither anti- nor pro-regulation. It is simply a tool that helps policymakers produce good regulations and prevent bad ones from being made law" (Glaeser and Sunstein 2014). Unfortunately, determining the costs of regulations is difficult. As a Congression-

al Research Service report notes,

*The prospective . . . estimates of benefits and costs that are done before rules are issued are necessarily uncertain and heavily dependent on numerous assumptions. Particularly difficult to quantify are long-term or uncertain effects of rules where subtle interactions between various factors are often not well understood or directly measurable.* (Carey 2014)

Still, the Office of Management and Budget (OMB) annually submits a report to Congress on the costs and benefits of federal regulations. The 2017 report reviews major regulations (those with costs or benefits of at least \$100 million in at least one year) from fiscal year (FY) 2007 through FY 2016. It estimates that annual costs of regulations published over that period totaled between \$78 and \$115 billion, while benefits ranged from \$287 to \$911 billion (OIRA 2018).

This official cost-benefit report includes just a subset of regulations, so it certainly underestimates the total cost of regulations. Additionally, the estimates “rarely consider interactive or cumulative effects,” as noted in a working paper from the Mercatus Center of George Mason University (Coffey et al. 2016).

A few studies have attempted to estimate the full economic impact of all federal regulations. A Competitive Enterprise Institute study estimates that “across-the-board federal regulatory costs” (including compliance and economic effects) are \$1.9 trillion each year (Crews 2018).

Similarly, a 2014 report by W. Mark Crain and Nicole V. Crain for the National Association of Manufacturers estimated that federal regulations cost \$2.028 trillion in 2012, “an amount equal to 12 percent of GDP” (Crain and Crain 2014). That estimate includes both direct and indirect (“the impact on aggregate economic output”) costs.

A Progressive Policy Institute paper notes, “Over time regulations naturally

accumulate and layer on top of existing rules, resulting in a maze of duplicative and outdated rules companies must comply with” (Mandel and Carew 2013). In a paper for the Manufacturers Alliance for Productivity and Innovation, NERA Economic Consulting found that this layering causes costs to “increase more rapidly than the sum of the costs estimated in isolation. This super-additive result occurs because the regulations interact with each other and create additional distortions in the economy, leading to higher costs and impacts” (Montgomery et al. 2012). A single regulation may seem to have minor costs, but all those minor costs add up: Cumulative impacts matter. The National Association of Manufacturers (NAM) reports, “The cumulative burden of regulation is a growing concern of US manufacturers” (NAM 2017).

Further, as regulations accumulate, they require more resources for compliance: “In short, the cost of regulation is not just in terms of direct compliance outlays, but also in diverting resources and constraining actions with respect to growth and employment” (Crain and Crain 2014). Similarly, “The opportunity cost of regulation is primarily reduced market innovation” (NAM 2017).

Ultimately, this creates a drag on the economy and hinders job creation. One attempt to quantify this effect found,

*On net, cumulated regulations slow the growth of the entire economy by an average of 0.8 percent per annum. . . . Had regulations been held constant at levels observed in 1980, our model predicts that the economy would be nearly 25 percent larger. In other words, the growth of regulation since 1980 cost the United States roughly \$4 trillion in GDP (nearly \$13,000 per person) in 2012 alone.* (Coffey et al. 2016)

*Manufacturing Impacts.* Regulations are particularly costly for the manufacturing sector. Crain and Crain found that in 2012, federal regulations cost firms across all sectors \$233,182 (\$9,991 per

**Federal regulations cost firms across all sectors \$9,991 per employee.**

**They cost manufacturing firms \$19,564 per employee.**

employee). Regulations cost manufacturing firms \$864,125 (\$19,564 per employee). Much of the difference is due to the disproportionate impact that environmental regulations have on the manufacturing sector.

Additionally, regulatory costs per employee are highest for smaller firms, and small manufacturing firms face especially high costs. Across all sectors, firms with fewer than 50 employees have regulatory costs that are 17 percent higher than for average firms. Manufacturing firms with fewer than 50 employees have regulatory costs that are 77 percent higher than for average manufacturing firms. (Crain and Crain 2014)

*Interstate Rankings.* A number of groups attempt to quantify the effects of regulations across states.

Although federal regulations apply nationally, they will affect a state more or less depending on its industry mix, as some industries are more regulated than others. The Mercatus Center has developed the FRASE (federal regulation and state enterprise) Index, which quantifies “the impact of federal regulation on the private-sector industries in each state’s economy” (QuantGov 2016a). By this measure, Washington ranks 30th—federal regulations have a higher impact on Washington’s economy than 20 other states (QuantGov2016a).

According to the Mercatus Center, “The Environmental Protection Agency has the most significant regulatory reach in Washington, impacting 48.8 percent of Washington’s private-sector GDP” (QuantGov 2016b). (As the OMB report notes, the Environmental Protection Agency promulgates the rules with the highest benefits and highest costs: They “account for over 80 percent of the monetized benefits and over 70 percent of the monetized costs” (OIRA 2018).)

On top of these federal regulations, states and localities impose their own. States with regulations that impose a

smaller net burden will have a competitive edge.

In 2015, the Pacific Research Institute ranked the states on their regulation of small business. Overall, Washington ranks 9th most burdensome. There are two broad components to this ranking: On labor regulations (e.g., workers’ compensation and minimum wage regulations), Washington ranks 6th most burdensome; and on business regulations (e.g., regulatory flexibility for small businesses and land use and energy regulations), Washington ranks 16th most burdensome. (Washington ranks 7th most burdensome on both the land use and energy subcomponents.) (Winegarden 2015)

The Cato Institute’s Freedom in the 50 States looks at fiscal policy, regulatory policy, and personal freedom to rank the states. Overall, Washington ranks 19th least free, but Washington ranks 8th most burdensome on the regulatory component. The report notes,

*Although Washington has had one of the more regulated economies in the United States for a long time, it has benefited from the fact that other West Coast states have had the same. Since 2006, we show decent gains in personal freedom and fiscal policy, along with some losses on regulatory policy.* (Ruger and Sorens 2016)

It is difficult to estimate the costs of federal regulation, let alone the costs of all state and local regulations. Still, efforts to compare regulatory burdens across states consistently rank Washington middling to poor.

### **Washington’s Regulations are Subject to Analysis and Review**

There are two major laws in Washington that provide for economic analysis and review of regulations: the Administrative Procedure Act (RCW 34.05) and the Regulatory Fairness Act (RCW 19.85). Both were amended by the Regulatory Reform Act of 1995 (Chapter 403, Laws of 1995).

*Administrative Procedure Act (APA).* Under the APA, certain agencies must perform cost-benefit analyses for certain rules, including significant legislative rules (but not for rules that implement statutes without material change). Significant legislative rules include, for example, those that adopt new policies or regulatory programs (RCW 34.05.328(5)(c)(iii)).

Before adopting such rules, the agencies must “determine that the probable benefits of the rule are greater than its probable costs” (RCW 34.05.328(1)(d)) and that “the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives” (RCW 34.05.328(1)(e)). Additionally, if rules differ from federal regulations, agencies must “determine that the difference is justified” (RCW 34.05.328(1)(h)).

The APA also provides for legislative review, through the Joint Administrative Rules Review Committee (JARRC) (RCW 34.05.620–650). JARRC last met in 2013.

*Regulatory Fairness Act (RFA).* Under the RFA, agencies must prepare small business economic impact statements for rules that would impose “more than minor costs on businesses in an industry” (RCW 19.85.030). Then, if there is a disproportionate impact on small business, agencies must reduce the costs of the rule.

*Cost-Benefit Analysis in Practice.* It’s not clear how effective the cost-benefit requirements are. As an example, Initiative 1433 (minimum wage increase and paid sick leave) was adopted by voters in 2016. In the rulemaking’s cost-benefit analysis, the Department of Labor and Industries estimated the rules would cost \$48 million–\$87 million annually, while the benefits would total \$327 million–\$348 million annually. However, the analysis notes,

*... any compliance costs that can be attributed to the passed initiative are not considered costs of complying with the rule, thus will not be analyzed in*

*this report. For example, the cost of paying at least one hour of sick leave to employees for every 40 hours worked will not be analyzed in this report, as it is a requirement from the law. (L&I 2017)*

On the other hand, though, “when it comes to assessing benefits we are unable to disentangle those that arise from the rule compared with the initiative and we assume that the benefits granted by the initiative are the benefits of the rule” (L&I 2017). Thus, the benefits are potentially overstated and the costs are understated. Additionally, the full costs of the initiative were never fully accounted for—only a subset of the costs are required to be included in the cost-benefit analysis, and the fiscal impact statement of the initiative only considered impacts on government, not the private sector.

### **Regulatory Reform Efforts**

Although these laws have been on the books for decades, successive governors and the Legislature have found cause to make regulatory reform a priority. Gov. Lowry’s regulatory reform task force (Executive Order 93-06) led to the Regulatory Reform Act of 1995.

In Executive Order (EO) 97-02, Gov. Locke required agencies to review “rules that have significant effects on businesses, labor, consumers, and the environment” to determine if they should be retained, amended, or repealed (Locke 1997). According to a final report on the review in 2001, agencies reviewed 28,776 sections of the Washington Administrative Code (WAC), repealed 8,166 rule sections, and cut 2,425 pages from the WAC. They also rewrote 9,193 sections to comply with clear writing requirements. (SMQI 2001) (According to the Office of the Code Reviser, there are currently 23,183 pages and about 55,000 sections in the WAC.)

Additionally, Gov. Locke formed the Washington Competitiveness Council (WCC) in 2001, “to facilitate a discussion of the issues affecting Washington’s abil-

*Streamlining, coordination, and communication have been recurring themes in Washington's regulatory reform efforts.*

ity to compete in the global economy of the 21st century" (WCC 2002). One of those issues affecting Washington's competitiveness was the state's environmental regulatory and permitting system.

The WCC's final report identified the central problem with the regulatory system: "instead of being adopted pursuant to a cohesive and rational plan, these laws have generally been adopted in response to specific environmental concerns that have arisen in isolation over the years. This has resulted in a complicated and fragmented system of regulatory protections implemented by numerous regulatory agencies" (WCC 2002). Some of the problems identified by the WCC were "duplicative enforcement of the laws," too-lengthy (and unenforceable) time limits on agency decision-making, and "process-based rather than outcome-based" decision-making (WCC 2002).

The WCC recommended that state leadership be established to enable comprehensive regulatory reform. It also urged the state to "[c]onsolidate permit processes, reduce the number of permits required to complete a project, and improve permit coordination among the agencies" (WCC 2002).

The Legislature created the Office of Regulatory Assistance (RCW 43.42) in the governor's office in 2002. It "helps people navigate Washington's environment and business regulatory systems and collaborates for innovative process improvements" (ORIA n.d.a). (Gov. Inslee renamed it the Office for Regulatory Innovation and Assistance "to reflect his interest in pursuing innovative solutions to regulatory improvements" (ORIA n.d.b).)

In 2004, the WCC recommended that the Office of Regulatory Assistance establish and monitor permit timeliness benchmarks for agencies (WCC 2004). (The WCC's ideas were picked up in a series of performance audits from the State Auditor's Office a decade later.)

In executive orders 10-06 and 11-03, Gov. Gregoire went so far as to suspend

"non-critical rule development and adoption" from Nov. 17, 2010 through Dec. 31, 2012 (Gregoire 2010b and 2011). In doing so, she noted, "a stable and predictable regulatory and policy environment will conserve resources for small businesses and local governments and promote economic recovery" (Gregoire 2010b).

Other Gregoire executive orders directed the development of a one-stop business portal and multiagency permit reviews (EO 06-02), consolidation of small business regulatory guides into one statewide resource (EO 10-05), and the creation of a small business liaison program (EO 12-01).

### **Reform Efficacy**

Streamlining, coordination, and communication have been recurring themes in Washington's regulatory reform efforts. Yet reform initiatives haven't always delivered. As we wrote in 2011, despite previous reforms, "thousands of new rules continued to be crafted each year by regulatory agencies—rules that often overlap, conflict, and confuse" (WRT and WRC 2011).

Over the past several years, the State Auditor's Office (SAO) has published four performance audits on regulatory reform in Washington. Overall, the audits found a continued lack of streamlining, coordination, and communication. For example, the audits found:

- The state did not have a single, one-stop business portal (despite EO 06-02) (SAO 2012).
- None of the state's three business websites communicated complete regulatory information (despite EO 10-05) (SAO 2012).
- Agencies themselves presented incomplete information on their regulations. (SAO 2012)
- Not all agencies had formal regulatory review processes (SAO 2012).
- Agencies did not provide permit deci-

sion times for 60 percent of all permits and only tracked processing times for 62 percent of business permits (SAO 2013).

- The state did not have a strategic approach to multi-agency coordination (SAO 2015).
- Implementation of the RFA has been uneven, with agencies interpreting the law differently (SAO 2016).

The series of audits prompted several new laws, which picked up some of the SAO's recommendations:

- SSB 5679 (Chapter 30, Laws of 2013) requires the departments of Ecology, Labor and Industries, and Health to formally review their existing rules every five years, with a goal of reducing "the regulatory burden on businesses without compromising public health and safety." Additionally, the departments must adopt benchmarks.

The Department of Labor and Industries (L&I) subsequently said it would "complete a review of all 7,000 rules by September 2018" (L&I et al. 2014). L&I established benchmarks for the percentage of rules reviewed each year, the number repealed or revised each year, and timeliness (L&I et al. 2014). The Department of Ecology will undertake formal rule reviews every two years, and it has benchmarks related to customer feedback, permit timeliness, and percent of rules reviewed (L&I et al. 2014).

- HB 1818 (Chapter 324, Laws of 2013) requires the Department of Commerce to "conduct multijurisdictional regulatory streamlining projects that each impact a specific industry sector." The Department of Commerce has since created "Regulatory Roadmaps," which provide "a single source of comprehensive information about requirements at the state and local levels" (Commerce n.d.).

Currently, Commerce has roadmaps for manufacturing facilities, restaurants,

and contractor construction. Manufacturers have told Commerce that the roadmaps have helped them "save significant time on a siting project" (Commerce n.d.).

According to Commerce,

*The central tool on the sites is a custom interactive spreadsheet that asks questions related to regulatory thresholds, and provides the user with the specific requirements that appear to apply to their situation. This customization has been our most significant innovation, while cost and time estimates help owners understand if a potential site will pencil out.* (Commerce n.d.)

- E2SHB 2192 (Chapter 68, Laws of 2014; RCW 43.42A) requires that 14 agencies track permit decision times and provide estimates of how long permit processing will take. The most recent permit timeliness report provides data for 2015. Ecology stands out for reporting that average decision times for several permits can be measured by years, rather than months or days (ORIA 2016).
- 2SHB 1120 (Chapter 53, Laws of 2017) clarifies that the RFA does not apply to proposed rules that do not affect small businesses, requires mitigation options be considered for rules that only affect small businesses, requires small business cost mitigation in cases where there is not sufficient data to determine disproportionate impacts, and requires the Office of Regulatory Assistance to act as "the central entity to collaborate with and provide support to state agencies in meeting the requirements of the regulatory fairness act."

These bills were all adopted unanimously or nearly unanimously, demonstrating the nonpartisan, noncontroversial nature of regulatory reform. For the bills to be successful in making the regulatory system work better in our state, as we wrote in 2011, "lawmakers and the governor

must remain vigilant and exercise administrative and regulatory oversight” (WRT and WRC 2011).

### **Manufacturing Competitiveness**

As the SAO wrote in its 2015 audit, “By streamlining business regulations without sacrificing other essential objectives, such as preserving the environment or ensuring a safe workplace, we may find that the lower costs—to both businesses and government—will help the state attract and support business opportunities” (SAO 2015).

An improved regulatory environment would certainly benefit manufacturing. The AWB Institute talked to manufacturers in 2014 about challenges the industry faces in Washington. It found, “While regulations and oversight are necessary, Washington state manufacturers are hesitant to expand their businesses because of an unpredictable and unreliable regulatory environment. Overregulation from all levels of government increases costs for expansion and job growth projects” (AWB Institute 2014). Ultimately, this “stymies manufacturing growth” (AWB Institute 2014).

This concern was echoed in comments to the state Department of Commerce when it was developing its Regulatory Roadmaps. Manufacturers “cited lack of predictability and lack of transparency as key factors that affect the cost and success of their expansion projects” (Commerce 2017).

Similarly, the AWB Institute talked to small businesses across Washington in 2016; a top concern was that “[b]usiness regulations in Washington state create an anti-competitive environment with other states because of higher financial burdens” (AWB Institute 2017). Indeed, Washington’s labor costs are high. For example, Washington has the nation’s highest minimum wage, high workers’ compensation benefit costs, and new requirements for paid sick leave and paid family leave.

Also, as noted above, environmental reg-

ulations are a big part of manufacturing’s high regulatory costs. We have previously written about environmental and land use regulations, noting that some State Environmental Policy Act (SEPA) requirements are redundant and environmentally unnecessary given the Growth Management Act, Shoreline Management Act, and other regulations adopted after SEPA (WRT and WRC 2011). As we wrote in our recent report on the Growth Management Act (GMA), such overlap (and confusion) continues to concern the state’s development community (WRC 2016a).

Further, although GMA “emerged from concerns about lack of consistency and coordination in land-use planning, uncontrolled and inefficient growth, and environmental damage,” its “rigid [urban growth area] boundaries are heading for a collision with other policy goals that are rising in priority, including housing affordability, economic disparities, and the need for new schools” (WRC 2016a). Opportunity Washington observed that given the history of the GMA, “regulatory policies should be regularly reviewed to see that benefits justify the costs of compliance. As circumstances and priorities change over time, it will be important to be certain that the policies already in place continue to work for the future” (OpWA 2017).

Indeed, when regulations overlap and accumulate, they can undermine economic growth, job creation, and competitiveness by making a state or area less attractive as a place to do business. Recent decisions by Washington permitting agencies have had a more direct chilling effect.

Since 2013, the Department of Ecology has expanded the scope of review under SEPA for certain projects involving coal and oil. In the cases of three proposed export facilities, the SEPA reviews considered the greenhouse gas emissions associated with the end-uses of the products to be exported, rather than just the facilities themselves. The result has

*When regulations overlap and accumulate, they can undermine economic growth, job creation, and competitiveness by making a state or area less attractive as a place to do business.*

been extraordinary permitting delays and project cancellations:

- Gateway Pacific Terminal (a dry bulk export facility at Cherry Point in Whatcom County) was proposed in 2011, but the project was suspended in April 2016 before even a draft environmental impact statement (EIS) had been issued. In May 2016, the U.S. Army Corps of Engineers denied the project a federal permit (WRC 2016b). The company withdrew its permit applications in February 2017 (Whatcom 2017).
- Millennium Bulk Terminals (a coal export facility in Longview) was proposed in February 2012, and the final EIS was released in April 2017 (WRC 2016b). In September 2017, Ecology denied a necessary water quality permit (Bernton 2017). The company has since sued, on the grounds that Washington has “unreasonably delayed and denied a number of permits” and is “actively preventing coal mined in other states from moving in foreign and interstate commerce” (Lighthouse Resources 2018). The lawsuit is pending in federal court.
- Vancouver Energy (a crude oil loading facility) applied for permits in August 2013, and the final EIS was released in November 2017. In December 2017, the Energy Facility Site Evaluation Council recommended that the governor deny the permits; he did so in January 2018. (EFSEC n.d.)

Foreshadowing these developments, in 2002, the WCC noted that the state’s regulatory system led to “[m]anipulation of the permitting system by project opponents,” as well as project uncertainty (WCC 2002). As Opportunity Washington notes, “This regulatory overreach threatens jobs and economic activity at these planned facilities, and sets a dangerous precedent for evaluating other projects based on impacts outside the state” (OpWa 2017).

This matters for manufacturing’s future in

Washington. Lee Newgent of the Washington State Building & Construction Trades Council said, “We have some of the most stringent environmental policies in the world. But our never-ending and arbitrary regulatory processes are limiting manufacturing opportunities in our state—and the good-paying jobs that go with them” (KWC 2016b).

Similarly, Kris Johnson of the Association of Washington Business said that some employers “will not be willing to tolerate the delays of Washington’s permitting system and will not bring the needed investment to our state” (KWC 2016a). Such investment benefits all of us. The SAO wrote, “Prolonged approval processes can deter development, which in turn limits economic growth and reduces government revenue” (SAO 2015).

Although the expanded SEPA has contributed to the years-long permit decision times for the projects mentioned above, permit timeliness has long been a known issue. Indeed, since 2001, there has been a 120-day time limit for local government land use permit decisions (RCW 36.70B.080). However, as the WCC report noted, the law has “inadequate negative consequences” (WCC 2002).

Similarly, expedited permit and environmental review processes for projects of statewide significance were required by SSB 5761 (Chapter 54, Laws of 2003; RCW 43.157.020). In a 2004 report, the WCC noted, “To ensure continued progress, permitting agencies must set targets for permit processing time and be held accountable for meeting them” (WCC 2004).

In 2007, the Legislature again set a timeliness goal. In ESB 5508 (Chapter 231, Laws of 2007), the Legislature found, “uncertainty in government processes to permit an activity by a citizen of Washington state is undesirable and erodes confidence in government.” The legislation recommended that development permit applicants be provided with minimum and maximum decision times.



More recently, the Legislature enacted SHB 1086 (Chapter 289, Laws of 2017; RCW 43.21C.0311), which requires agencies under SEPA to “aspire to prepare a final environmental impact statement . . . within twenty-four months of a threshold determination of a probable significant, adverse environmental impact.” In adopting the legislation nearly unanimously, the Legislature noted,

*. . . excessive delays in the environmental impact analysis process adds uncertainty and burdensome costs to those seeking to do business in the state of Washington. Therefore, it is the intent of the legislature to promote timely completion of state environmental policy act processes. In doing so, the legislature intends to restore balance between the need to carefully consider environmental impacts and the need to maintain the economic competitiveness of state businesses.*

### Policy Recommendations

Finding that regulatory balance between minimizing negative impacts to the environment and workplace and maximizing competitiveness is the goal of reformers. As former Gov. Lowry noted, “Ineffective regulation can result in time-consuming and expensive procedures providing little public or private benefit” (Lowry 1994). But lasting reform has proved elusive, as the recent performance audits have shown.

When a high regulatory burden draws resources away from innovation, it hinders economic growth and job creation. As manufacturing is an important part of the economies of counties across the state, the state should endeavor to make the regulatory process as smooth and timely as possible.

The SAO’s audits made many good recommendations, some of which have been taken up by the Legislature. Some of its recommendations are evergreen: Complete information for all permits should be available on agency websites, rules should be reviewed regularly, and results

should be measured.

Beyond those recommendations, the state should enforce the regulatory reform laws already on the books. Follow-through is the key here: Streamline, coordinate, communicate, repeat.

In addition, the state should:

- Create statewide permitting templates that could “reduce process friction and guarantee certainty, reducing public costs and drawing private investment into areas where there is reticence to invest” (WRC 2016a). This would help the continued development of the manufacturing sector across the state. Similarly, the Regulatory Roadmaps developed by the Department of Commerce are a promising initiative. While the manufacturing roadmap is currently only available for three cities, Commerce plans to “expand the initiative into a statewide program that supports broader and faster adoption of the roadmaps” (Commerce 2018).
- Give “a single agency the authority over particular permitting procedures” (WRT and WRC 2011). This would help address the state’s problems with permit timeliness. Agencies should coordinate with federal and local regulators to maximize the benefits of streamlining (WRC 2015). Also, the state should make every effort to follow the timeliness guidelines already set in the law.
- Improve the cost-benefit analysis process. Although Washington requires such analysis for certain rules, it is not all-encompassing. For some rules (as in the paid sick leave example noted above), the full cost of the policy may never be accounted for. This keeps the state from recognizing the extent of the regulatory burden. In 2013, the Pew-MacArthur Results First Initiative found, “When it comes to use of cost-benefit analysis, Washington state is the national leader” (Pew 2013). The study focused on program analysis

*As manufacturing is an important part of the economies of counties across the state, the state should endeavor to make the regulatory process as smooth and timely as possible.*

(the work of the Washington State Institute for Public Policy), not regulatory review. That expertise could be applied to cost-benefit analyses that are required as part of the rulemaking process.

- Ensure that new regulations are not duplicative. As the WCC noted, regulations are adopted piecemeal, without regard to a “rational plan” (WCC 2002). We have recommended one way to address this problem: “The Department of Commerce should create a permanent task force that monitors legislative and gubernatorial rulemaking and alerts both institutions when a potential conflict is emerging” (WRT and WRC 2011).
- Create an independent commission to periodically review regulations and make recommendations as to whether they are still needed. This could be modeled after Washington’s Citizen Commission for Performance Measurement of Tax Preferences. Alternatively, economists at the Progressive Policy Institute have proposed a Regulatory Improvement Commission at the federal level. Under their proposal, federal agencies would not review their own rules. Instead, the commission (based on the Defense Base Closure and Realignment Commission) would retrospectively review federal regulations and submit a list of changes to Congress, which would have to vote on the whole list without amendments. Such a commission could help reduce regulatory accumulation and its costs (Mandel and Carew 2013). Something similar could be tried at the state level in Washington.

State leadership has consistently recognized the need for regulatory reform. By continuing to follow these noncontroversial regulatory principles, the regulatory burden will be less costly and more certain—without reducing the benefits regulations are meant to effect. This would make Washington a more welcoming place for manufacturing.

## References

- AWB Institute. 2014. “[Washington Manufacturing](#).” Association of Washington Business.
- . 2017. “[Small Business in Washington State: Key Findings from the Association of Washington Business](#).”
- Bernton, Hal. 2017. “[Washington state denies key permit for Columbia River coal terminal, potentially dooming project](#).” Seattle Times. Sept. 26.
- Carey, Maeve P. 2014. “[Cost-Benefit and Other Analysis Requirements in the Rulemaking Process](#).” Congressional Research Service. Dec. 9.
- Coffey, Bentley, Patrick A. McLaughlin, and Pietro Peretto. 2016. “[The Cumulative Cost of Regulations](#).” Mercatus Working Paper. April.
- Crain, W. Mark and Nicole V. Crain. 2014. “[The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business](#).” National Association of Manufacturers. Sept. 10.
- Crews, Clyde Wayne. 2018. “[Ten Thousand Commandments: An Annual Snapshot of the Federal Regulatory State](#).” Competitive Enterprise Institute. April 19.
- Departments of Labor & Industries, Health, and Ecology (L&I et al.). 2014. “[Rules Review Report \(SSB 5679\): 2014 Report to the Legislature](#).”
- Department of Labor & Industries (L&I). 2017. “[Final Cost-Benefit Analysis and Least Burdensome Analysis: Rules implementing Initiative 1433, An Act Related to Fair Labor Standards – Paid Sick Leave and Retaliation, Chapter 296-128 WAC, Minimum wages](#).” Oct. 17.
- Energy Facility Site Evaluation Council (EFSEC). No date. “[Tesoro Savage Vancouver Energy Project](#).” Application No. 2013–01. Accessed July 2, 2018.
- Glaeser, Edward and Cass R. Sunstein. 2014. “[Regulatory Review for the](#)

- [States](#)." National Affairs. Summer.
- Gregoire, Christine O. 2006. "[Regulatory Improvement: Improve, Simplify and Assist](#)." Executive Order 06-02. Office of the Governor. Feb.
- . 2010a. "[Improving the Way State Government Serves Small Business](#)." Executive Order 10-05. Office of the Governor. Oct. 26.
- . 2010b. "[Suspending Non-Critical Rule Development and Adoption](#)." Executive Order 10-06. Office of the Governor. Nov. 17.
- . 2011. "[Extending Executive Order 10-06 Suspending Non-Critical Rule Development and Adoption](#)." Executive Order 11-03. Oct. 11.
- . 2012. "[Regulatory Reform and Assistance to Help Small Business Succeed and Grow](#)." Executive Order 12-01. Office of the Governor. Jan. 5.
- Keep Washington Competitive (KWC). 2016a. "[Labor, business, ag leaders voice support for Millennium Bulk Terminals](#)." April 29.
- . 2016b. "[Building trades leader: Time to act on Millennium Bulk Terminals](#)." July 13.
- Lighthouse Resources, Lighthouse Products, LHR Infrastructure, LHR Coal, and Millennium Bulk Terminals-Longview vs. Jay Inslee, Maia Bellon, and Hilary S. Franz. 2018. "[Complaint for Declaratory and Injunctive Relief](#)." U.S. District Court, Western District of Washington at Tacoma. Jan. 3.
- Locke, Gary. 1997. "[Regulatory Improvement](#)." Executive Order 97-02. Office of the Governor. March 25.
- Lowry, Mike. 1993. "[Improving State Regulatory Activities](#)." Executive Order 93-06. Aug. 9.
- . 1994. "[On Regulatory Reform](#)." Executive Order 94-07. Office of the Governor. June 6.
- Mandel, Michael and Diana G. Carew. 2013. "[Regulatory Improvement Com-](#)  
[mission: A Politically-Viable Approach to U.S. Regulatory Reform](#)." Progressive Policy Institute. May.
- Montgomery, W. David, Paul Bernstein, Elizabeth Becker, Lee Lane, Priscilla Medeiros, Daniel O'Toole, James Overdahl, and Sugandha D. Tuladhar. 2012. "[Macroeconomic Impacts of Federal Regulation of the Manufacturing Sector](#)." NERA Economic Consulting, commissioned by Manufacturers Alliance for Productivity and Innovation. Aug. 21.
- National Association of Manufacturers (NAM). 2017. "[Holding US Back: Regulation of the U.S. Manufacturing Sector](#)." Prepared by Pareto Policy Solutions, LLC. Jan. 18.
- Office of Information and Regulatory Affairs (OIRA). 2018. "[2017 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act](#)." Office of Management and Budget. Feb. 23.
- Office for Regulatory Innovation and Assistance (ORIA). No date a. "[Our Organization](#)." Accessed July 11, 2018.
- . No date b. "[Why ORIA was created](#)." Accessed June 27, 2018.
- . 2016. "[Permit Timeliness Report](#)." Sept.
- Opportunity Washington (OpWA). 2017. "[A Roadmap for Expanding Washington's Culture of Opportunity to Individuals, Families, Employers, and Communities in Every Corner of the State](#)."
- Pew Charitable Trusts and MacArthur Foundation (Pew). 2013. "[States' Use of Cost-Benefit Analysis: Improving Results for Taxpayers](#)." Pew-MacArthur Results First Initiative. July.
- QuantGov. 2016a. "[The Impact of Federal Regulation on the 50 States](#)." The FRASE Index. Mercatus Center, George Mason University. Accessed June 15, 2018.
- . 2016b. "[Washington](#)." The FRASE

- Index. Mercatus Center, George Mason University. Accessed June 15, 2018.
- Reagan, Ronald. 1981. "[Executive Order 12291—Federal regulation](#)." Federal Register, National Archives. Feb. 17.
- Ruger, William P. and Jason Sorens. 2016. "[Freedom in the 50 States](#)." Cato Institute.
- State Auditor's Office (SAO). 2012. "[Regulatory Reform: Communicating Regulatory Information and Streamlining Business Rules](#)." Report No. 1008276. Sept. 6.
- . 2013. "[Regulatory Reform: Improving Permit Timeliness](#)." Report No. 1010778. Dec. 30.
- . 2015. "[Regulatory Reform: Enhancing Regulatory Agency Coordination](#)." Audit No. 1014149. July 20.
- . 2016. "[Assessing Implementation of the Regulatory Fairness Act](#)." Report No. 1018365. Dec. 27.
- Subcabinet on Management and Quality Improvement (SMQI). 2001. "[2001 Regulatory Improvement Progress Report](#)." Office of Financial Management. Dec. (Accessible as Appendix I.)
- Washington Department of Commerce (Commerce). No date. "[Regulatory Roadmaps for Washington Businesses](#)." Accessed June 27, 2018.
- . 2017. "[Regulatory Streamlining – Manufacturing: Update to the Legislature per HB 1818 Section 2\(9\)](#)." Jan.
- . 2018. "[Regulatory Streamlining – Regulatory Roadmap: Update to the Legislature per HB 1818 Section 2\(9\)](#)." June.
- Washington Competitiveness Council (WCC). 2002. "[Washington Competitiveness Council Final Report](#)." Jan.
- . 2004. "[Phase II: Final Report](#)." Jan.
- Washington Research Council (WRC). 2012. "[A Complex Maze of State and Local Laws and Regulations](#)." PB 12–22. Oct. 24.
- . 2015. "[Regulatory Reform: A Win-Win-Win for Agencies, Businesses, and Taxpayers](#)." SR 15–06. Aug. 20.
- . 2016a. "[The Growth Management Act at 25 Years](#)." SR 16–05. July.
- . 2016b. "[The Expanded SEPA Has Reduced Regulatory Certainty in Washington](#)." SR 16–07. Oct. 24.
- . 2017. "[Rebalancing Priorities: The Case for Manufacturing Jobs Part I](#)." SR 17–06. Sept. 18.
- . 2018. "[Manufacturing Jobs Part II: Education and Workforce Development Strategies to Close the Skills Gap](#)." SR 18–02. June 13.
- Washington Roundtable and Washington Research Council. 2011. "[Confronting Washington State's Overlapping Regulatory Structures](#)." Thrive Washington. April 26.
- Whatcom County. 2017. "[Gateway Pacific Terminal Proposed Project](#)." Planning & Development Services. Feb. 9.
- Winegarden, Wayne. 2015. "[The 50-State Small Business Regulation Index](#)." Pacific Research Institute. July.