

REGULATIONS AND WEST VIRGINIA V. EPA

EXAMPLES OF TERRIBLE REGULATIONS

GIG WORKERS & INDEPENDENT CONTRACTORS IN LIMBO

Restricted by an Obama-era regulation, freed up again by a Trump-era regulation, and now restricted again under Biden.

IMPACTS

- ➔ Nearly one-third of all American workers freelanced in a 12-month period surveyed in 2021.
- ➔ Uber has roughly 1 million drivers in the U.S., and around a quarter of Americans use a ride-share app each month. Brookings estimated the annual benefits to the American economy in the billions in 2020.

FLAVORED E-CIGARETTES

The FDA issued new regulations against flavored e-cigarettes in 2020.

IMPACTS

- ➔ Instead of stamping out e-cigarettes, they were driven underground – the number of different e-cigarettes sold in the U.S. has in fact tripled since 2020, largely thanks to imports from China.
- ➔ Bootleg vapes routinely contain harmful chemicals and have been linked to injuries and deaths.

CAFE STANDARDS & CAR MODELING

CAFE standards, introduced in 1975, have always been problematic but perverse incentives skyrocketed with the adoption of a footprint-based model in 2011.

Bigger cars had less stringent mile per gallon (MPG) targets, so car makers... built bigger cars.

IMPACTS

- ➔ The beloved Ford Ranger was the best-selling compact truck in the U.S. from 1987-2004, ceased production in 2011, and then returned in 2019 as a larger, mid-sized pickup.

EMISSIONS DATA IN SEC FILINGS

The SEC announced plans for climate disclosure requirements in 2022, with estimated compliance costs of up to \$10 billion – adding yet another drag on an economy that was suffering from over \$400 billion in annual compliance costs as of 2016.

IMPACTS

- ➔ Retail investors earn lower returns, companies run at tighter margins, and employees get paid less – all in service of the climate change agenda.

ACCREDITED INVESTOR REQUIREMENTS

Accredited investor requirements hurt the American economy on both ends. These regulations lock retail investors out of private markets, and in so doing, also limit the money available to entrepreneurs.

IMPACTS

- ➔ Only about 13% of Americans qualify as accredited investors.

KEY PROVISIONS AND WEST VIRGINIA V. EPA

This case was the first to codify the “major questions doctrine” (MQD).

MQD holds that “major” domestic policy (economically and politically significant) must originate with elected lawmakers – though lawmakers may still choose to assign rule-making authority to agencies.

In this specific case, the Obama-era Clean Power Plan constituted a clear overreach of regulatory powers, foisting onto Americans **regulations that would have cost the average family an estimated \$2,000 of income annually** – a truly major question.

KEY LANGUAGE - RULING

- ➔ “Legislation would risk becoming nothing more than the will of the current President or, worse yet, the will of unelected officials barely responsive to him... agencies could churn out new laws more or less at whim. Intrusions on liberty would not be difficult and rare, but easy and profuse.” (Justice Neil Gorsuch)
- ➔ “In reaching its judgment, the Court hardly professes to ‘appoin[t] itself’ ‘the decision-maker on climate policy.’ The Court acknowledges only that, under our Constitution, the people’s elected representatives in Congress are the decisionmakers here – and they have not clearly granted agency the authority it claims for itself.” (Justice Neil Gorsuch)
- ➔ “Capping carbon dioxide emissions at a level that will force a nationwide transition away from the use of coal to generate electricity may be a sensible ‘solution to the crisis of the day.’ But it is not plausible that Congress gave EPA the authority to adopt on its own such a regulatory scheme in Section 111(d). A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body.” (Chief Justice John Roberts)