Governor Romney has endorsed an idea called regulatory budgeting, but it really means capping protection for public health. Romney's position paper explains the concept as follows:

> To force agencies to limit the costs they are imposing on society, and to provide the certainty that businesses crave, a system of regulatory caps is required. As noted, the federal government has estimated that the existing regulatory burden approaches $1.75 trillion. We cannot afford those costs to go any higher. . . .
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> . . . .In the first term of a Romney administration, the rate at which agencies could impose new regulations would be capped at zero. What this means is that if an agency wishes or is required by law to issue a new regulation, it must go through a budget-like process and identify offsetting cost reductions from the existing regulatory burden.

Most of the EPA's major regulations are based on public health, and Romney's "cap" is very much like rationing health care – it says that EPA cannot protect the health of the public from one threat unless it's willing in exchange to allow another threat to public health go untreated. Putting a compliance cap on public health protections is akin to saying that, because medical costs are too high, a doctor could not accept a new patient without cutting off care to an existing patient.

Consider two recent regulations. Under Romney's proposal, EPA might have to decide between reducing particulates from diesel trucks, which cause lung diseases, and reducing mercury from power plants, which harms the development of children's brains. The two regulations deal with different kinds of harm and impose costs on different industries. If each regulation considered independently makes sense, it seems bizarre to say that we have to choose between them. Why should the trucking industry be allowed to cause lung disease as the price for stopping power plants from harming children?

Romney's proposal is deeply flawed. The $1.75 trillion figure comes from a discredited study by consultants to the Small Business Administration. Romney's position paper notes that this is "dramatically more" than all income taxes combined, and the figure also amounts to three times greater than total defense spending. The assertion that over ten percent of the economy is devoted to regulatory compliance simply isn't credible.

The study and the Romney position paper also fail to consider the benefits of regulation. If

we *were* actually spending that much money but getting even larger benefits for society, it would be hard to complain. For instance, if the regulations produced $2 trillion in societal benefits, eliminating the regulations would make society as a whole $250 billion poorer. What's the argument for doing that?

On top of that, Romney's first-year plan is legally untenable. Congress, not the president, establishes the criteria for justifying the creation of a new rule and the repeal of old ones. Repealing a regulation has to be based on reasons relating to that regulation. The president can set regulatory priorities, within the limits set by Congress, but he can't change the legal basis for agency action, whether that action be adopting or repealing a regulation. If an agency says "the reason we repealed this regulation is that otherwise the president wouldn't let us adopt another regulation that was mandated by law," a court is not going to be favorably disposed.

In short, Romney's proposal that may sound appealing to readers of the *Wall Street Journal*'s editorial page, but doesn't really qualify as a serious policy position. It is really just a gimmick that allows businesses to avoid regulation without actually having to do the hard work of showing that there's anything wrong with any particular regulation.