

# Ten Thousand Commandments

## An Annual Policymaker's Snapshot of the Federal Regulatory State

2001 Edition

Clyde Wayne Crews, Jr.

### EXECUTIVE SUMMARY

In the new fiscal year 2002 federal budget, President George W. Bush proposed to spend \$1.96 trillion on discretionary, entitlement, and interest spending.<sup>1</sup> While these costs fully encompass the on-budget scope of the federal government, there is considerably more to the reach of the federal government than the sum of the taxes sent to Washington. Federal environmental, safety and health, and economic regulations cost hundreds of billions of dollars every year—*on top* of official federal outlays.

The exact cost of federal regulations can never be fully known. But governmental and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits—all of which can be compiled in a way that makes the regulatory state more comprehensible to the public. That is the purpose of the annual *Ten Thousand Commandments* report, some highlights of which appear below.

- The 2000 *Federal Register* contained 74,258 pages, the highest level since Jimmy Carter's presidency and a 4 percent jump over 1999.
- Approximately 4,300 final rules were issued by agencies in 2000, a 4 percent drop from the previous year.
- In 2000, 4,699 regulations were at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions, an increase of 3.5 percent over the previous year.
- Of the 4,699 regulations now in the works, 158 are "economically significant" rules that will have at least \$100 million in economic impact. That means new regulations to impose at least \$15.8 billion yearly in future off-budget costs are in the pipeline.
- \$100 million rules in the works increased 15 percent between 1999 and 2000, from 137 to 158.
- The five most active rule-producing agencies (the departments of Transportation, Treasury, Interior, and Commerce, and the Environmental Protection Agency) account for 48 percent of all rules under consideration.
- Of the 4,699 regulations now in the works, 1,054 impact small business. Rules impacting small businesses are up 9 percent over the past year and up 40 percent over the past five years.
- The costs of meeting the demands of off-budget social regulations were as high as \$229 billion, according to the Office of Management and Budget (OMB). A more broadly constructed competing

estimate that includes economic regulatory costs and paperwork costs pegs regulatory expenditures at \$788 billion in 2000, or 44 percent the size of all federal fiscal year 2000 outlays.

- Regulatory costs of \$788 billion are equivalent to 7.9 percent of U.S. gross domestic product, estimated at \$9,974 billion for 2000.
- Regulatory costs rival the amount estimated to be paid in 2000 individual income taxes, which was \$951.6 billion.
- In 1998, the median two-earner family's after-tax income of \$41,846 contained \$7,410 in hidden regulatory costs. Thus, regulatory costs eat up about 18 percent of the after-tax family budget.
- Agencies spent \$19 billion to administer and police the regulatory state in 2000, 6.7 percent more than the previous year. Counting the \$788 billion in off-budget costs, that brings the total regulatory burden to \$807 billion.

The U.S. is now enjoying its first string of budgetary surpluses in decades. But if maintaining a true surplus remains a priority, then sincere policymaking also must seek to control regulatory costs. Think of it this way: The maximum anticipated surplus is \$796 billion in 2010.<sup>2</sup> But the regulatory costs of over \$700 billion already rival that number. Moreover, regulations and taxes can be substitutes for one another; a new government program requires increasing spending—or imposing new rules and regulations. Thus, unless regulatory activity is better monitored, the balanced budget imperative may tend to invite Congress to adopt new off-budget private-sector regulations rather than new spending that would deplete the surplus. If regulatory costs remain largely hidden from public view, the fallout will be less from regulating than from taxing and spending.

Regulations should be treated the same way federal spending is treated: To the extent possible, Congress should be held directly accountable for the compliance costs—as well as the benefits—that federal regulations deliver to the public. Cost-benefit analysis of rules is the typical remedy proposed to police excess regulation. The problem with cost-benefit analysis, however, is that it is largely a form of agency self-policing; agencies would perform “audits” of their own rules. Granted, some propose that agency analyses be subjected to third-party review. But even this is unlikely to be enough, since agencies will rarely admit if benefits of a rule do not justify the costs involved.

The way to maximize congressional accountability is to require Congress to vote on agency rules (in an expedited fashion) before they are binding. Vital for true accountability, this step would fulfill citizens' rights to “No regulation without representation.” Disclosing costs of rules would remain important, however, even if Congress approved rules; openness about regulatory facts and figures is critical, just as disclosure of program costs is critical in the federal budget. Relatively simple “Regulatory Report Cards,” in some respects like the presentation in *Ten Thousand Commandments*, can be performed officially each year by the federal government to distill regulatory data.

~Clyde Wayne Crews, Jr.

# Ten Thousand Commandments

An Annual Policymaker's Snapshot of the Federal  
Regulatory State

2001 Edition

Clyde Wayne Crews, Jr.

## INTRODUCTION: TOWARD ENDING "REGULATION WITHOUT REPRESENTATION"

The federal government primarily funds its programs in three ways. The first is to raise taxes to pay for new programs. The second is to borrow money to pay for them (with a promise to pay back that borrowed money, with interest, from taxes collected in the future). No matter how controversial government spending programs can be, taxpayers can always see how much programs cost by looking at the federal budget, and Congress can be held accountable for programs that are controversial. While not perfect, such accountability is a fundamental, necessary condition for controlling government.

The third way the government can accomplish its goals is to regulate. That is, rather than pay directly and book the expense of a new initiative, it can require that the private sector and lower-level governments pay. By regulating, the government can carry out desired programs but avoid using tax dollars to fund them. This process sometimes allows Congress to escape accountability and to blame agencies for costs. Since disclosure and accountability for regulation are limited, policymakers have little incentive to care about the extent of regulatory costs or where those costs stand in relation to ordinary government spending. Regulatory costs are unbudgeted and lack the formal presentation to the public and media to which ordinary federal spending is subject, and thus regulatory initiatives allow the government to direct private-sector resources to a significant degree without much public fuss. In that sense, regulation can be thought of as off-budget taxation. Figure 1 provides perspective on the level of "hidden regulatory taxation," by presenting summary data for selected topics described in this report. Trends over the past few years are provided where information is available.

---

*REGULATIONS  
CAN BE  
REGARDED AS  
A FORM OF  
OFF-BUDGET  
TAXATION.*

---



**Figure 1**  
**The Regulatory State: An Overview**

	2000	1-Year Change	5-Year Change	10-Year Change
Total Regulatory Costs	\$788 billion	1.7%	6.5%	16%
Environmental/Social Regulatory Costs	\$292 billion	3.5%	15%	57.8%
Economic Regulatory Costs	\$238 billion	-0.4%	-2.8%	-6.7%
Agency Enforcement Budgets	\$19 billion	6.6%	19.5%	27.9%
Net <i>Federal Register</i> Pages	74,258	4.3%	15%	28.1%
<i>Federal Register</i> Pages Devoted to Final Rules	24,482	21.2%	13.2%	45.8%
Total <i>Federal Register</i> Rule Documents	6,949	12.7%	-14.7%	-7.5%
<i>Federal Register</i> Final Rule Documents	4,313	-7.9%	-12.6%	-2.3%
Total Rules in <i>Unified Agenda</i>	4,699	3.5%	0.4%	-3.4%
“Economically Significant” Rules in the Pipeline	158	15.3%	13.7%	n/a
Rules Impacting Small Business	1,054	9.4%	39.8%	n/a
Rules Impacting State Governments	679	-7.2%	.7%	n/a
Rules Impacting Local Governments	420	-7.3%	-1.4%	n/a
Major Rules Finalized by Agencies	75	63%	n/a	n/a
<b><u>EPA Spotlight</u></b>				
Total Number of EPA Rules in Unified Agenda	449	-1.5%	3.9%	n/a
“Economically Significant” EPA Rules in <i>Agenda</i>	31	10.7%	-32.6%	n/a
“Economically Significant” Rules in the Pipeline	5	0%	n/a	n/a
Rules Impacting Small Business	205	14.5%	34.9%	n/a

The 2001 edition of *Ten Thousand Commandments* is divided into four main sections:

- An overview of the costs and scope of the regulatory state, such as its size in comparison to the federal budget and the gross national product, and its impact on the family budget.
- An analysis of trends in the numbers of regulations issued by agencies, based on data and information provided in the *Federal Register* and the *Unified Agenda of Federal Regulations*.
- Recommendations for regulatory reform that emphasize ending “regulation without representation.” Steps to improve disclosure of regulatory costs and increase congressional accountability for regulations are offered, in contrast to the agency-driven cost-benefit analysis that typical reform proposals emphasize.
- An appendix containing historical tables providing data on regulatory trends over the past several years.



# THE REGULATORY STATE AND ITS COST TO AMERICANS

## THE SOCIAL AND ECONOMIC COSTS OF REGULATION

The Office of Management and Budget (OMB) released a report on regulatory costs and benefits in June 2000. OMB determined that costs of social regulations (such as environmental quality and health and safety rules) range from \$146 billion to \$229 billion.<sup>3</sup> The OMB further estimates that benefits of those rules range from \$254 billion to \$1.8 trillion. As Figure 2 shows, these findings lead OMB to report “net benefits” of federal regulation in the range of \$25 billion to \$1.65 trillion. In the worst case, then, OMB finds regulations produce \$25 billion in net benefits, about \$5 billion less than estimated in OMB’s previous report on the subject. Note, however, that OMB’s cost-benefit breakdown uses only benefits and costs that were both quantified and monetized. Furthermore, cost-benefit analysis will be highly sensitive to basic assumptions made about how regulations translate to health benefits.<sup>4</sup>

THE FEDERAL  
SURPLUS  
IS SWAMPED  
BY THE COSTS  
OF REGULATIONS.

**Figure 2**  
**Estimates of Total Annual Monetized Benefits and Costs of Social Regulations**  
(in billions of 1996 dollars, as of 1999)

	<b>Benefits</b>	<b>Costs</b>
Environmental Regulations	\$97 to \$1,610	\$96 to \$170
Transportation Regulations	\$84 to \$110	\$15 to \$18
Labor	\$28 to \$30	\$18 to \$19
Other	\$45 to \$49	\$17 to \$22
<b>Total</b>	\$254 to 1,799	\$146 to \$229
<b>Net benefit range</b>		\$25 to 1,653

Source: OMB, *Report to Congress on the Costs and Benefits of Federal Regulations*, June 2000.

Another widely cited regulatory survey looks at regulatory costs covering the years 1977 through 2000. Prepared in 1995 for the Small Business Administration by Professor Thomas D. Hopkins of the Rochester Institute of Technology, this report assessed social and environmental costs, just as the OMB report did. But Hopkins also included costs of economic regulations (such as price and entry restrictions), “transfer” costs (such as farm price supports), and paperwork costs (such as tax compliance). Professor Hopkins’s well-known (indeed probably the best-known) estimates projected the total direct compliance costs for federal regulations at some \$788 billion for 2000, the last year for which he provided estimates.<sup>5</sup>



**Figure 3**  
**Regulatory Compliance Cost Estimates 1977-2001\***  
(in billions of 1999 dollars)

YEAR	SOCIAL			ECONOMIC			PAPER WORK	TOTAL
	Environ.	Other Social	Total Social	Efficiency Loss	Transfer	Total Econ.		
1977	51	35	86	163	315	478	151	715
1978	57	38	95	155	298	454	152	701
1979	61	40	102	146	280	426	152	680
1980	66	43	108	137	261	398	156	662
1981	69	40	109	129	246	375	161	645
1982	71	38	109	124	233	356	157	623
1983	78	35	113	118	223	341	176	630
1984	83	34	117	113	212	325	178	620
1985	89	34	122	108	203	312	180	614
1986	95	34	129	104	193	297	180	607
1987	102	35	137	98	184	282	190	609
1988	107	37	144	94	173	267	189	600
1989	115	39	154	93	171	263	197	614
1990	122	43	165	91	167	258	225	648
1991	141	44	185	90	165	255	239	679
1992	150	51	201	90	164	254	247	702
1993	163	56	219	89	163	251	232	702
1994	166	58	224	87	162	249	235	708
1995	184	60	244	87	161	248	238	730
1996	190	63	254	86	158	245	242	740
1997	197	66	262	86	157	244	246	752
1998	205	68	273	85	156	242	250	765
1999	211	71	282	84	155	239	254	775
<b>2000</b>	<b>218</b>	<b>74</b>	<b>292</b>	<b>84</b>	<b>154</b>	<b>238</b>	<b>258</b>	<b>788</b>

Source: Data from US Small Business Administration, Office of the Chief Counsel for Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Washington, DC, October 1995, Table 3, p. 28. Original 1995 dollars are adjusted by the change in the CPI between 1995 and 1999.

Given that indirect costs—such as the impacts of lost innovation or productivity—are not included in Hopkins’s analysis, he has noted that his figures likely somewhat understate the total regulatory burden.<sup>6</sup> On the other hand, regulatory benefits are beyond the scope of Hopkins’s analysis, yet those would be recognized to offset some costs (as they certainly are by the OMB).<sup>7</sup>



Figure 3 shows Hopkins's regulatory cost breakdown from 1977 to 2000, adjusted for the change in consumer price index (CPI) since his original calculations.<sup>8</sup> As noted, Hopkins sorted regulations into three main categories: social (such as environmental rules and health and safety requirements), economic (such as efficiency costs of price and entry controls on business, and losses from economic transfers), and paperwork (largely tax compliance costs). Each category accounts for roughly one-third of total compliance costs, but the growing environmental/social category increasingly comprises a larger share. Note the rise in environmental and social costs and the slight decrease in economic costs.

Figure 3's columns show the decline in the level of economic regulation. On the other hand, paperwork costs have increased, and social regulatory costs have increased dramatically. Economic regulatory reforms caused overall regulatory costs to drop during much of the 1980s, to a 1988 low of \$600 billion. But paperwork-filing costs and increasing environmental and social regulations (such as the Clean Air Act amendments and the Americans with Disabilities Act) began to overwhelm those declines and add to total costs thereafter.

The offsetting movements of economic and social regulatory costs over the past two decades have altered the mix of the regulatory state's main components. The environmental/social component of regulatory costs made up just 12 percent of the total regulatory cost burden in 1977. In 2000, it comprised 37 percent.

#### **REGULATION VS. GOVERNMENT SPENDING**

The federal government's budget is finally in balance, having put an end to nearly three decades of deficit spending; indeed, Washington is expected to post a surplus of \$236 billion in 2000.<sup>9</sup> "Deficit spending," however, lives on in the form of regulatory compliance costs that go largely unacknowledged by the federal government.

As Figure 4 shows, 2000's \$788 billion in regulatory costs is equivalent to 44 percent of on-budget spending of \$1,789 trillion.<sup>10</sup> Note that while there indeed exists a fiscal surplus, it is swamped by the costs of regulations.

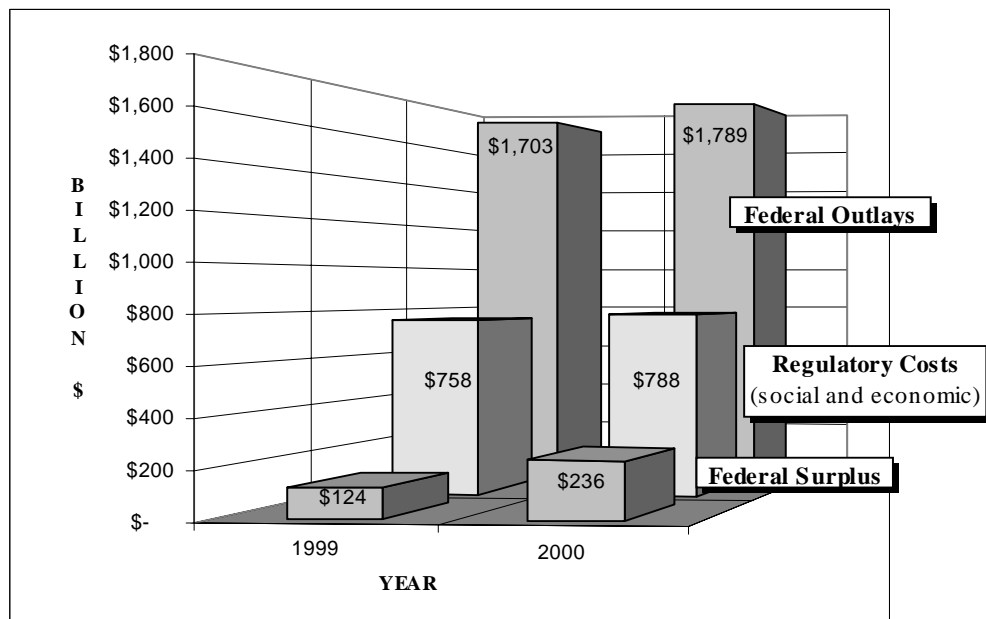
---

*CONGRESS KNOWS  
WITH CERTAINTY  
THE SIZE OF THE  
FEDERAL SURPLUS  
AND MAY GROW  
NERVOUS AS IT  
DWINDES, BUT  
SINCE REGULATORY  
COSTS ARE HIDDEN,  
THE FALLOUT  
FROM REGULATING  
INSTEAD MAY BE  
LESS.*

---



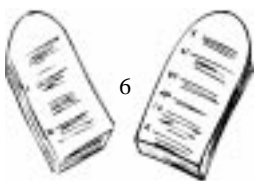
**Figure 4**  
**Off-Budget Regulatory Costs**  
**Compared with Projected Federal Spending**  
**and Expected Surplus**  
(in billions of dollars, 1999-2000)



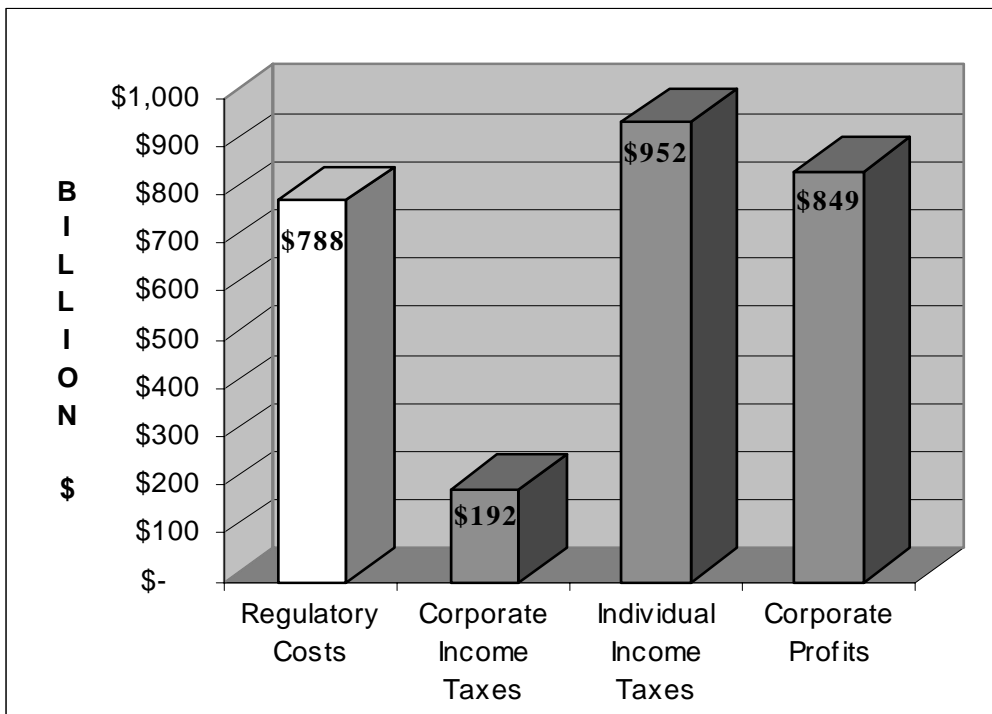
Sources: *The Budget and Economic Outlook: Fiscal Years 2002-2011*, January 2001, Congressional Budget Office; Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, October 1995. Federal surplus and outlay numbers are by fiscal year; regulatory costs are shown by calendar year.

### REGULATORY COSTS VS. INCOME TAXES AND CORPORATE PROFITS

In fact, regulatory costs exceed that of most major taxes. Regulatory costs stand to the shoulder of estimated 2000 individual income taxes, which was \$951.6 billion, as Figure 5 shows.<sup>11</sup> Corporate taxes, estimated at \$192.4 billion that year, are far outdistanced by regulatory costs.<sup>12</sup> Even pretax corporate *profits*, \$849 billion in 1999, are rivaled by regulatory costs, as Figure 5 also shows.<sup>13</sup>



**Figure 5**  
**Regulatory Costs Exceed Corporate Income Taxes,**  
**Rival Individual Income Taxes and Corporate *Pretax* Profits**

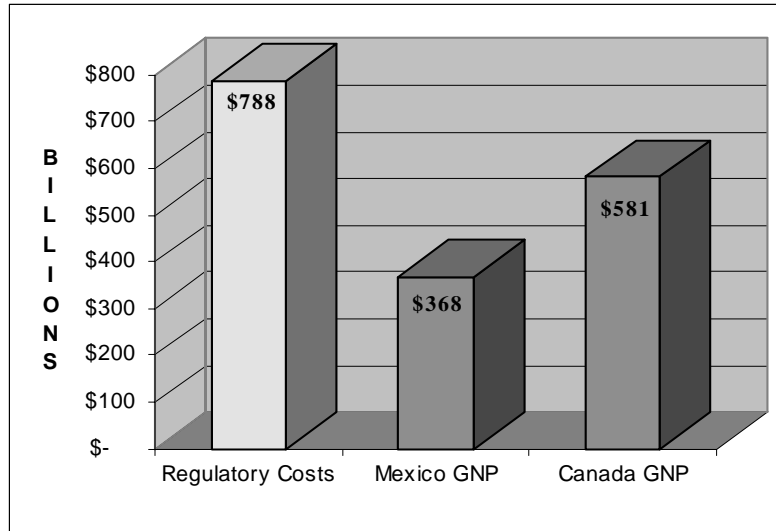


Sources: *Statistical Abstract of the United States 2000*; U.S. Small Business Administration, Office of the Chief Counsel for Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Washington, D.C., October 1995, Table 3, p. 28.

To put regulation into further perspective, U.S. regulatory costs of \$788 billion even exceeded the output of many entire national economies. As shown in Figure 6, U.S. regulatory costs exceeded the entire 1998 Gross National Product (GNP) of Canada (the latest figure available), which stood at \$581 billion. The regulatory burden was also more than double the 1998 GNP of Mexico, which totaled \$368 billion.<sup>14</sup>



**Figure 6**  
**Regulatory Costs Exceed 1998 GNPs**  
**of Canada and Mexico**



Sources: *Statistical Abstract of the United States 2000*, Table No. 1364, Gross National Product, by Country: 1998, p. 831; U.S. Small Business Administration, Office of the Chief Counsel for Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Washington, D.C., October 1995, Table 3, p. 28.

Total regulatory costs of \$788 billion are substantial—7.9 percent—even when compared to U.S. gross domestic product. (The Congressional Budget Office has estimated GDP at \$9,974 billion for 2000.)<sup>15</sup> Combined with direct federal outlays of \$1,789 billion, the federal government’s share of the economy is some 25.8 percent. (This is a slight decrease from the previous year, when the combined regulatory and outlay share of GDP was 26.6 percent.)

**U.S. REGULATORY COSTS EXCEED THE GNPs OF CANADA AND MEXICO.**

**REGULATORY COSTS EAT INTO THE FAMILY BUDGET**

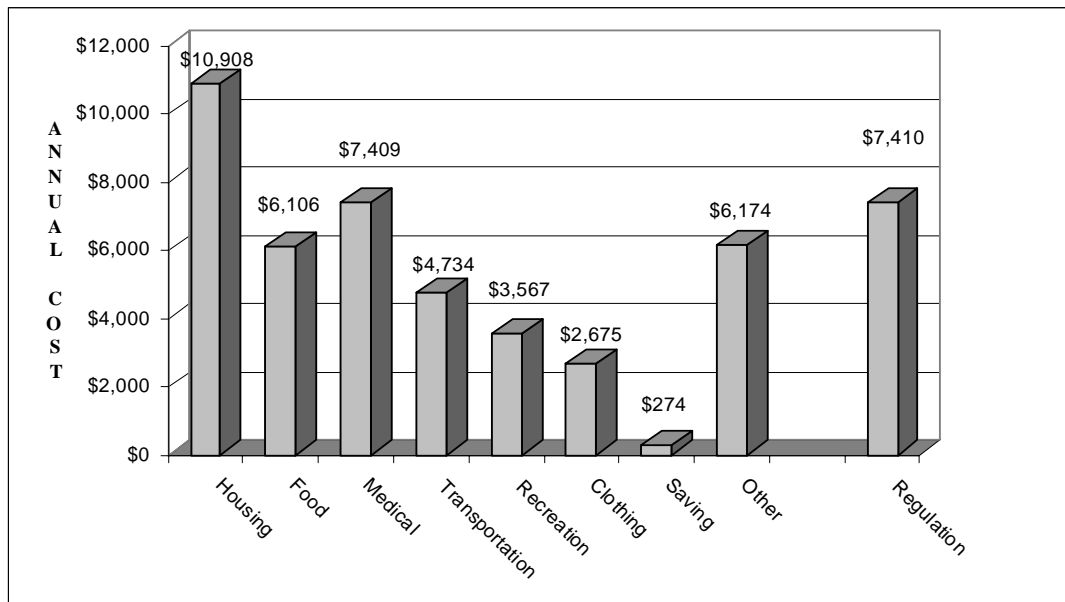
Firms generally pass along to consumers some of the costs of the taxes they are required to pay. Likewise the costs of regulations, although generally imposed on businesses, are passed on to consumers.

So how much of the family budget is absorbed by regulatory costs? For the median two-earner family, 1998 after-tax income (the latest year available) was \$41,846, according to the Tax Foundation.<sup>16</sup> In 1998 dollars, economic, social, and environmental regulatory costs totaled an estimated \$749 billion for that year, which broke out to \$7,410 for the typical family of four.<sup>17</sup> This means embedded regulatory costs absorb 17.7 percent of the typical household’s after-tax income.



Except for housing costs, embedded regulatory costs now exceed spending for every item in the average family's after-tax budget. More is spent on regulation than on medical expenses, food, transportation, recreation, clothing, and savings.

**Figure 7**  
**After-Tax Budget for the Two-Earner Family**  
**Contains \$7,410 in Embedded Regulatory Costs**



Sources: Tax Foundation, Dr. Thomas D. Hopkins; author arithmetic.

*CORPORATE TAXES, AT \$192 BILLION, ARE FAR OUTDISTANCED BY REGULATORY COMPLIANCE COSTS.*

**THE COSTS OF ADMINISTERING THE REGULATORY STATE**

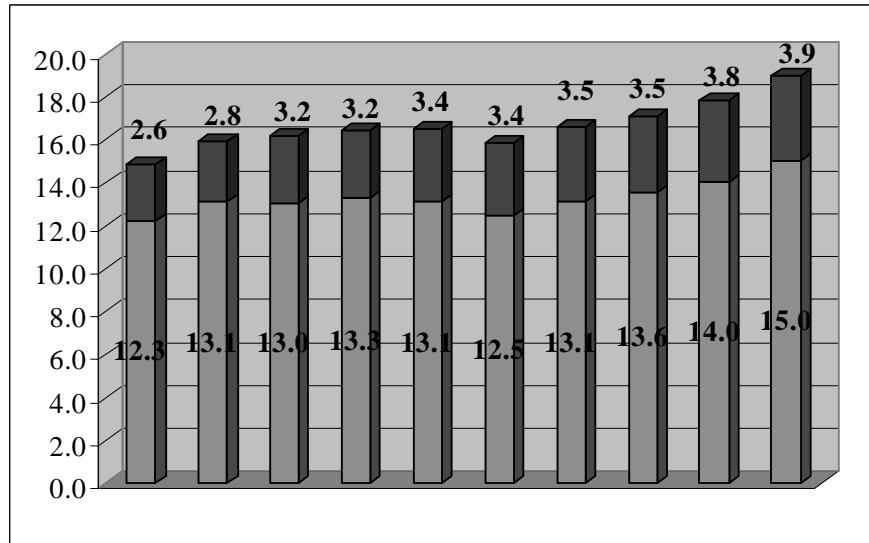
Thomas Hopkins's regulatory cost estimates include compliance costs paid by the public and lower-level governments. But his estimates do not include the costs of administering the regulatory state; these are the on-budget amounts spent by federal agencies to produce rules and police regulatory compliance. Each year the Center for the Study of American Business (CSAB) has studied the federal budget to excerpt and compile the governmental costs of developing and enforcing regulations. It publishes a study surveying the regulatory state's administrative costs. Since these funds represent amounts that taxpayers pay to support agencies' administrative budgets rather than compliance costs, they therefore are disclosed in the federal budget.

Estimates of fiscal year 2000 enforcement costs incurred by 54 departments and agencies reached a record high of \$19 billion (in constant 1999 dollars), an increase of 6.7 percent over the previous year.<sup>18</sup> (See Figure 8.) Of those costs, \$3.9



billion was spent administering economic regulation, a slight increase over the previous year's \$3.8 billion. The larger amount spent for writing and enforcing social and environmental regulations rose from \$14 billion to \$15 billion.

**Figure 8**  
**Agency Enforcement Budgets Rising**  
 (1991-2000, in billions of constant 1999 dollars)



Source: Melinda Warren, *Federal Regulatory Spending Reaches a New Height: An Analysis of the Budget of the United States Government for the Year 2001*, Center for the Study of American Business, Regulatory Budget Report 23, June 2000, Table A-5, p. 18. Original 1996 constant dollars used by CSAB in this report are adjusted by the change in CPI between 1996 and 1999, computed from Table No. 768. "Consumer Price Indexes (CPI-U), by Major Groups: 1980 to 1999," *Statistical Abstract of the United States 2000*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 487.  
 \*estimates

\_\_\_\_\_

*EVEN CORPORATE  
 PRETAX PROFITS—  
 \$849 BILLION  
 IN 1999—  
 ARE RIVALED BY  
 REGULATORY  
 COSTS.*

\_\_\_\_\_

The CSAB numbers help fill in the picture of the regulatory state. Adding the \$19 billion in administrative costs tabulated by CSAB to Hopkins's \$788 billion estimate for compliance costs brings the total 2000 regulatory burden to \$807 billion. As for the current 2001 fiscal year, the CSAB expects total regulatory enforcement costs to be slightly higher at \$19.5 billion.<sup>19</sup>

Federal agency staffing employed to write and enforce regulations is also on the rise. Full-time equivalent employment staffing reached 129,815 in fiscal year 2000, according to CSAB, a 3.3 percent increase over 1999.



## FEDERAL REGISTER ANALYSIS

### TENS OF THOUSANDS OF FEDERAL REGISTER PAGES

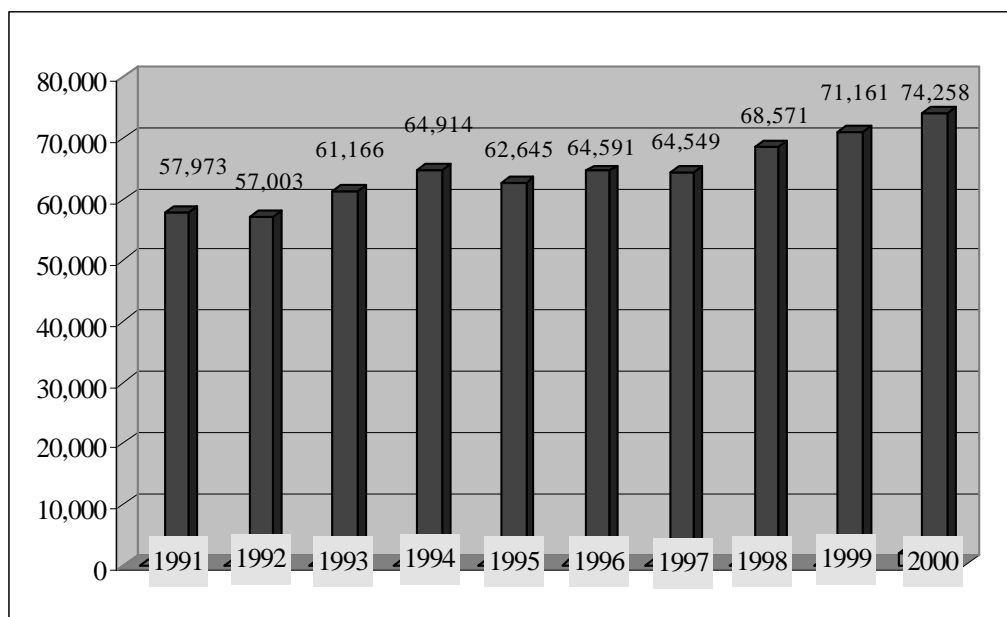
The *Federal Register* is the daily depository of all proposed and final federal rules and regulations. The number of pages in the *Register* is probably the most frequently cited measure of the scope of regulation. There are problems with using page numbers alone as a proxy for the level of regulation, of course. The wordiness of rules will vary, affecting page numbers and obscuring the real impact of the underlying rules. A short rule could be very costly, while a long rule could have not much impact. Administrative notices, corrections, presidential statements, and other material are contained in the *Register* as well. Blank pages also appear as a result of the Government Printing Office's imperfect prediction of agency pages required.

Nonetheless, it is surely worthwhile to track the *Register's* growth via pages, provided the appropriate caveats are kept in mind.

As may be seen, during 2000 the number of pages rose to 74,258, a 4.3 percent increase over the previous year. This new level is easily the highest page count since the Jimmy Carter years. Over the past 10 years, from 1991 to 2000, the page count has increased 28.1 percent. Over the past five years, pages are up 15 percent.<sup>20</sup>

**Figure 9**

***Federal Register Pages Up 28% Over 10 Years***  
(1991-2000)



Source: Office of the Federal Register, National Archives and Records Administration.



There is another interesting way of looking at the new record in page numbers. The *Federal Register* averaged 52,922 pages throughout the 1980s, including the record year of 1980. But during the 1990s (the period largely covered in Figure 9) pages averaged 62,237 per year.

It is clear that in terms of page counts, rules are on the rise now despite the Republican takeover of Congress in 1995. What happens now that President George W. Bush is in office remains to be seen. Back in 1995, *Federal Register* pages did fall, probably due in part to the fact that Republican reformers then kept a watchful eye on *Federal Register* pages and cited them frequently as a gauge of regulation. Also accounting for the drop that year is the partial federal government shutdown, which slowed the promulgation of new regulations for a time. But the increase in rules has since resumed its upward march.

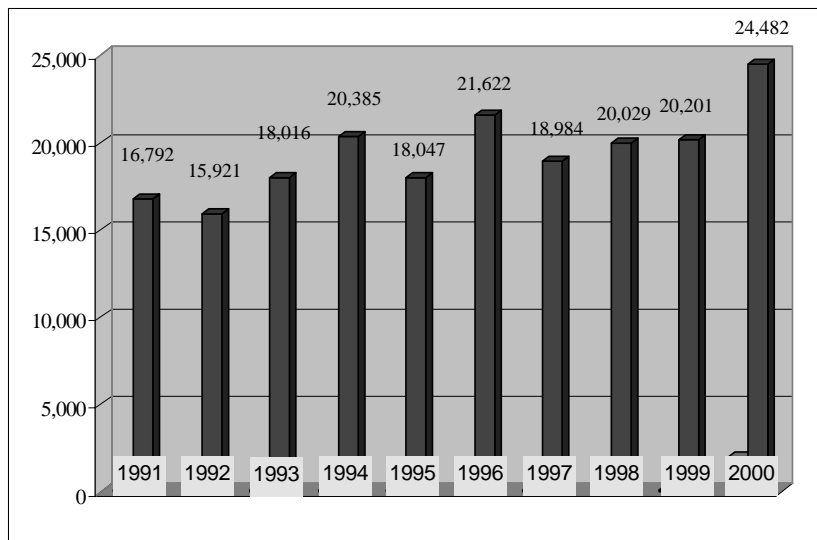
### FEDERAL REGISTER PAGES DEVOTED TO FINAL RULES

Although growth in total *Federal Register* pages has ticked upward to a new record-high level, overall page counts alone do not allow one to conclude whether actual regulatory burdens have increased or relaxed. Isolating those pages that are devoted specifically to *final* rules may be a bit more informative. This approach omits pages devoted to proposed rules, agency notices, corrections, and presidential documents.

Pages in the *Federal Register* devoted to final rules have increased 45.8 percent since 1991, from 16,792 to 24,482. (See Figure 10.) This is the highest level of final rules seen since 1976, when the page count was first given by category. The 2000 count of 24,482 is up 21 percent over 1999, a very substantial increase. The increase for 2000 could well be attributable to an effort by President Clinton to push larger rules through before the arrival of the Bush administration.

OFF-BUDGET  
REGULATORY  
COSTS ARE  
EQUIVALENT TO  
44 PERCENT  
OF FEDERAL  
SPENDING.

**Figure 10**  
**Federal Register Pages Devoted to Final Rules**  
(1991-2000)



Source: Office of the Federal Register, National Archives and Records Administration.



Thus, the aggregate *Federal Register* is bigger in terms of number of pages than it has been in two decades, and the pages devoted to final rules is on the rise, although not at a peak. It must be remembered, though, that the overall number of total or final rule pages can mask true levels of costs. Page reduction, even if it were achieved, is not the same as actually reducing the regulatory burden. It is nonetheless reasonable to suppose that the far higher number of pages devoted to final rules that prevails today genuinely signifies higher levels of final rule costs. To determine whether that is actually the case requires further analysis.

**NUMBER OF PROPOSED AND FINAL RULE DOCUMENTS IN THE *FEDERAL REGISTER***

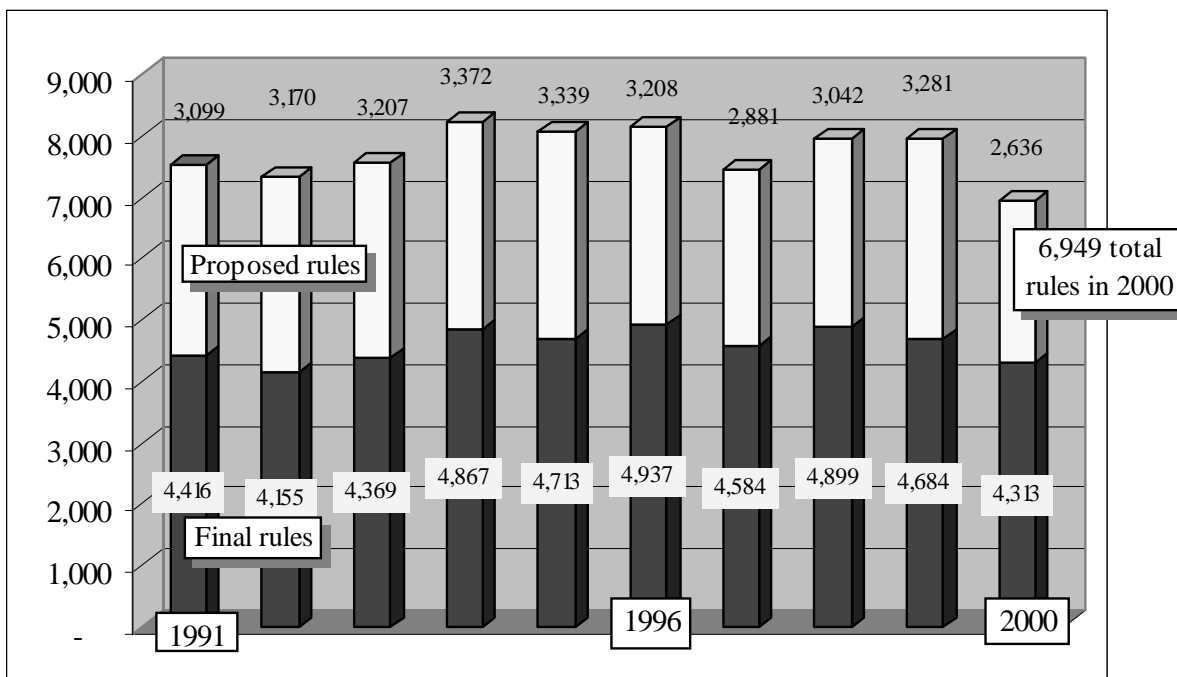
Rather than looking solely at the number of pages in the *Federal Register*, one needs to examine the numbers of proposed and final rules. As can be seen in Figure 11, in 2000 the total number of proposed and final rules published was lower, at 6,949, than at any time during the 1990s. However, this may be no real cause for celebration.

---

**REGULATIONS  
WERE PROJECTED  
TO BE ABOUT  
\$788 BILLION  
IN 2000.**

---

**Figure 11**  
**Number of Rules Published in the *Federal Register***  
(1991-2000)



Source: Office of the Federal Register, National Archives and Records Administration.

While the level of these rules has remained relatively flat over the past decade, the cumulative impact of such regulation matters as much as growth in any one particular year. The bottom line is that the annual outflow of well over 4,000 final rules has led to over 45,000 new rules since 1990. Indeed, *over 28,000 final rules have been issued since 1994*—that is, since the Republican takeover of Congress. It must be remembered, however, that the costs of those rules can vary tremendously.<sup>21</sup>

## **UNIFIED AGENDA OF FEDERAL REGULATIONS ANALYSIS**

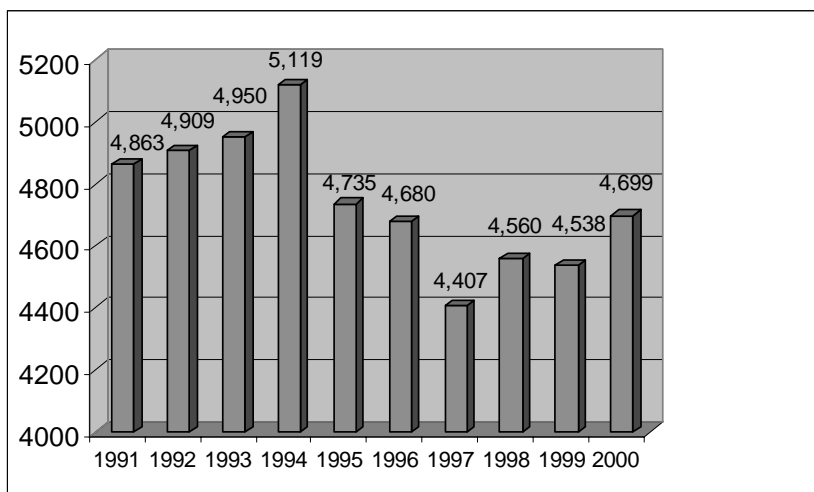
### **THOUSANDS OF NEW RULES IN THE PIPELINE**

The federal Regulatory Information Service Center releases the *Unified Agenda of Federal Regulations* each April and October. The *Agenda* outlines recently completed rules as well as those anticipated within the upcoming 12 months by the roughly 60 federal departments, agencies, and commissions. In this sense the *Agenda* serves as a rough gauge of what's in the regulatory pipeline at a given time. The *Agenda* depicts federal regulatory actions at several stages: pre-rule; proposed and final rules; actions recently completed over the past few months; and anticipated longer-term rule-makings. The *Agenda* is something of a cross-sectional snapshot of rules moving through the pipeline, and therefore the rules it contains may carry over at the same phase from one year to another, or they may reappear in subsequent *Agendas* at a different stage. The *Agenda*'s 4,500-plus rules primarily impact the private sector, but many also impact lower-level governments and the federal government.

The October 2000 *Unified Agenda* finds federal agencies, departments, and commissions at work on 4,699 regulations from the pre-rule to the just-completed stages.<sup>22</sup> As Figure 12 shows, rules in the *Unified Agenda* peaked at 5,119 in October 1994 and then declined—although they have topped 4,500 for the past three years. Between 1999 and 2000, the number of rules in the *Agenda* rose 3.5 percent, from 4,538 to 4,699.<sup>23</sup>

—————  
**THE COST OF  
 SOCIAL REGULA-  
 TION HAS RISEN  
 58 PERCENT  
 OVER THE PAST  
 DECADE.**  
 —————

**Figure 12**  
**Total Agency Rules in the *Unified Agenda* Pipeline**  
 (1991-2000)



Source: Compiled by author from *Unified Agenda of Federal Regulations*, various years, October editions; Regulatory Information Service Center.



Figure 13 breaks down October 2000's 4,699 rules by issuing department, agency, or commission. As is apparent, a relative handful of agencies accounts for a huge chunk of the rules produced, and such is the case each year. The agencies and departments excerpted in Figure 14 were the biggest rule-makers. These "Top Five," with 2,243 rules among them, account for 47.7 percent of all rules in the *Agenda* pipeline.<sup>24</sup>

**Figure 13**  
***Unified Agenda* Entries by Department and Agency**  
(October 2000)

	<b>Total Rules</b>		<b>Total Rules</b>
Dept. of Agriculture	327	National Science Foundation	5
Dept. of Commerce	390	Office of Fed. Housing Enterprise Oversight	5
Dept. of Defense	117	Office of Government Ethics	11
Dept. of Education	21	Office of Management & Budget	5
Dept. of Energy	67	Office of Personnel Management	110
Dept. of Health & Human Services	308	Office of Special Counsel	3
Dept. of Housing & Urban Development	113	Peace Corps	8
Dept. of the Interior	418	Pension Benefit Guaranty Corporation	10
Dept. of Justice	202	Presidio Trust	3
Dept. of Labor	156	Railroad Retirement Board	19
Dept. of State	21	Selective Service System	1
Dept. of Transportation	536	Small Business Administration	41
Dept. of Treasury	450	Social Security Administration	82
Dept. of Veterans Affairs	141	Tennessee Valley Authority	3
Advisory Council on Historic Preservation	1	Federal Acquisition Regulation	
Agency for International Development	6	(DOD, GSA, NASA)	56
Architectural and Transportation Barriers		Commodity Futures Trading Commission	21
Compliance Board	7	Consumer Product Safety Commission	20
Commission on Civil Rights	1	Farm Credit Administration	17
Corp. for National & Community Service	6	Farm Credit System Insurance Corporation	3
Environmental Protection Agency	449	Federal Communications Commission	137
Equal Empl. Opportunity Commission	6	Federal Deposit Insurance Corporation	26
Federal Emergency Management Agency	26	Federal Energy Regulatory Commission	18
Federal Mediation and Conciliation Service	2	Federal Housing Finance Board	12
General Services Administration	40	Federal Maritime Commission	9
Udall Inst. for Environmental Conflict Res.	3	Federal Reserve System	33
National Aeronautics & Space Admin.	11	Federal Trade Commission	14
National Archives & Records Admin.	21	National Credit Union Administration	16
Institute of Museum and Library Services	4	National Indian Gaming Commission	14
National Endowment for the Arts	5	Nuclear Regulatory Commission	55
National Endowment for the Humanities	7	Securities and Exchange Commission	77
		Surface Transportation Board	3
		<b>TOTAL</b>	<b>4,699</b>

*REGULATORY  
COSTS RIVAL THE  
TOTAL AMOUNT  
OF INDIVIDUAL  
INCOME TAXES  
COLLECTED.*

Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, October 2000.



**Figure 14**  
**The Top Five Rule Producing Agencies**

(1) Department of Transportation	536
(2) Department of the Treasury	450
(3) Environmental Protection Agency	449
(4) Department of the Interior	418
(5) Department of Commerce	<u>390</u>
<b>Total</b>	<b>2,243</b>

Source: Compiled by author from the *Unified Agenda*, October 2000

As examples of forthcoming initiatives, agencies noted the following rules (among many others) as priorities in the October 2000 *Agenda*.

***Department of Health and Human Services:***

- Standards for Privacy of Individually Identifiable Health Information
- Control of Salmonella Enteritidis in Shell Eggs During Production and Retail
- Fruit and Vegetable Juices: Development of Hazard Analysis Critical Control Points and Label Warning Statements for Juices

***Department of Labor:***

- Safety and Health Programs (For General Industry and the Maritime Industries)

***Department of Energy:***

- Energy Efficiency Standards for Water Heaters
- Energy Efficiency Standards for Clothes Washers

***Environmental Protection Agency:***

- Plywood and Composite Wood Products (national emission standards for hazardous air pollutants)
- Reciprocating Internal Combustion Engine (national emission standards for hazardous air pollutants)
- Groundwater and Pesticide Management Plan
- National Primary Drinking Water Regulations: Radon

***Consumer Product Safety Commission:***

- Flammability Standard for Upholstered Furniture

\_\_\_\_\_

**20 PERCENT**

OF THE FAMILY'S

AFTER-TAX BUD-

GET IS CONSUMED

BY REGULATORY

COSTS.

\_\_\_\_\_



## HIGH-COST, OFF-BUDGET RULES IN THE *AGENDA* WILL COST BILLIONS OF DOLLARS

Some of the *Agenda*'s 4,699 rules are considered "economically significant," meaning that the rules are anticipated to have yearly economic impacts of *at least* \$100 million. These impacts generally mean increased costs, although occasionally an economically significant rule is intended to reduce costs in the economy. As Figure 15 shows, 158 new economically significant rules are under consideration by 21 departments and agencies at the pre-rule, proposed, final, long-term, and recently completed stages. These high-cost rules are scattered among the 4,699 rules in the *Agenda*. Since each will cost at least \$100 million annually, these regulations can be expected to impose, at minimum, total annual costs of \$15.8 billion (158 rules multiplied by \$100 million). This compares to 137 high-cost rules last year, an increase of 15.3 percent.

**Figure 15**  
**158 Rules in the Pipeline Expected to Cost Over \$100 Million Annually**  
**(October 2000)**

	Pre-rule	Proposed	Final	Long-term	Completed	TOTAL
Dept. of Agriculture	0	5	9	9	1	24
Dept. of Commerce	0	0	3	0	1	4
Dept. of Energy	0	2	2	5	1	10
Dept. of Health & Human Services	0	4	7	10	6	27
Dept. of Housing & Urban Development	0	0	2	0	0	2
Dept. of Transportation	0	3	1	2	2	8
Dept. of Justice	0	1	0	0	0	1
Dept. of the Interior	0	0	1	1	1	3
Dept. of Labor	3	6	5	8	0	22
ATBCB	0	0	3	0	0	3
Environmental Protection Agency	0	15	9	3	4	31
Federal Emergency Management Agency	0	0	0	1	0	1
Office of Personnel Management	0	0	1	0	0	1
Small Business Administration	1	1	0	0	0	2
Social Security Administration	0	1	0	0	0	1
Federal Acquisition Regulation	0	1	0	0	0	1
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	1	0	9	2	12
Office of Federal Housing Enterprise Oversight	0	0	0	1	0	1
Federal Energy Regulatory Commission	0	0	0	1	0	1
Nuclear Regulatory Commission	0	0	0	0	2	2
<b>TOTAL</b>	<b>4</b>	<b>41</b>	<b>43</b>	<b>50</b>	<b>20</b>	<b>158</b>

Source: Compiled by the author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, October 2000.



A breakdown of the \$15.8 billion in regulatory costs is never presented directly for each rule in the *Agenda*. The costs represent a floor and are arrived at by combing through the document. Rather than accumulate and summarize regulatory costs for readers' benefit, each *Agenda* entry indicates whether or not a rule is "economically significant" and only occasionally provides additional cost data from agency Regulatory Impact Analyses. Note also that even as the \$15.8 billion in anticipated costs represents a lower boundary for regulatory costs, it is not simply a one-time cost, but a recurring annual cost that must be added to prior years' costs and to costs to come in the future.

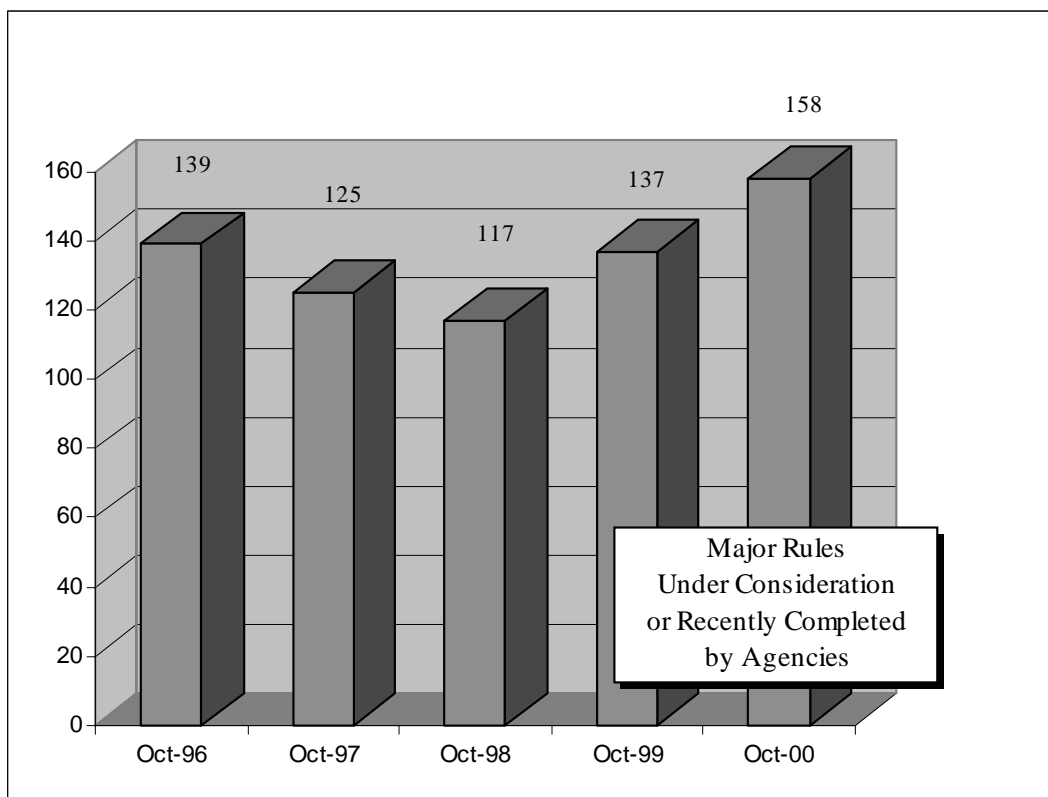
---

*REGULATORY  
COSTS EXCEED  
ALL EXPENSES IN  
THE FAMILY  
BUDGET, SAVE  
HOUSING.*

---

Figure 16 shows economically significant rules from the October *Unified Agendas* for 1996–2000.<sup>25</sup>

**Figure 16**  
**Economically Significant Rules in the**  
***Unified Agenda Pipeline***  
(1996-2000)



Source: Compiled by author from *Unified Agenda of Federal Regulations*, 1996-2000 Editions; Regulatory Information Service Center Center.



Moreover, it should be noted that agencies are not required to limit their activity to what they publish in the *Unified Agenda*, as stated explicitly in the *Agenda*: “The *Regulatory Plan* and the *Unified Agenda* do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications.”<sup>26</sup>

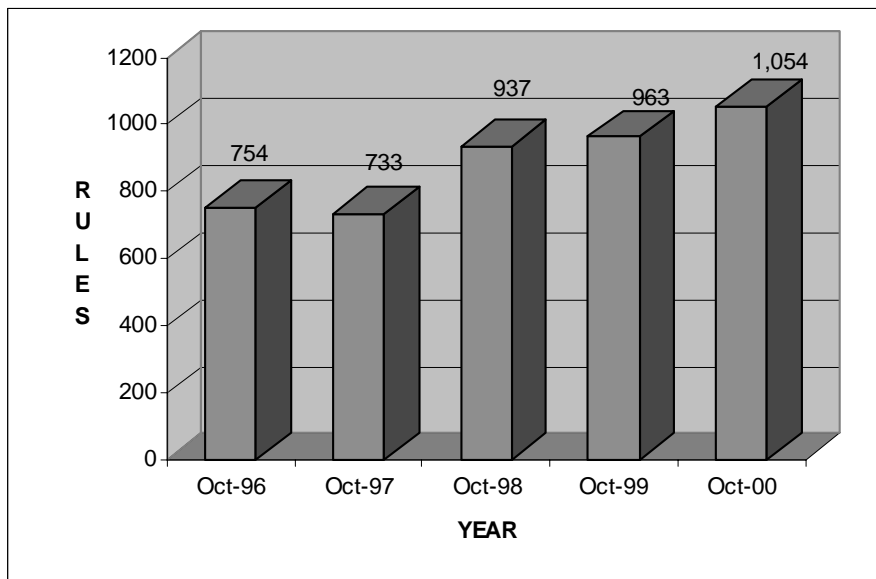
Finally, although economically significant rules receive the bulk of attention from policymakers and analysts, the remaining rules in the yearly pipeline should not be ignored. Consider: In 2000, 4,541 federal rules were *not* considered “economically significant” by the government (4,699 total rules minus the 158 economically significant ones). But that doesn’t mean many of these rules aren’t economically significant in the ordinary sense of the term. Any of these rules may cost up to \$99 million and still evade the “economically significant” label.

### PLANNED FEDERAL REGULATIONS EXPECTED TO IMPACT SMALL BUSINESS

The Regulatory Flexibility Act (RFA) requires that federal agencies assess the impact of their rules on small businesses. The *Unified Agenda* notes, “The Regulatory Flexibility Act... requires that agencies publish regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities.”<sup>27</sup>

As Figure 17 shows, 1,054 rules are anticipated to have significant economic impact on a number of small businesses, according to the 2000 *Unified Agenda*. This is up 9.4 percent from 963 such rules in 1999. Over the past five years, from 1996 to 2000, rules impacting small businesses have risen 39.8 percent, from 754 to 1,054.

**Figure 17**  
**Over 1,050 Rules Impact Small Business**  
 (1996-2000)



Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, various years.

---

*AGENCY  
 ENFORCEMENT  
 BUDGETS AND  
 STAFFING ARE  
 AT RECORD  
 LEVELS.*

---

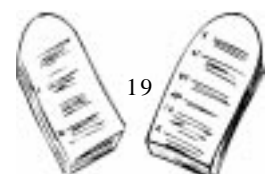
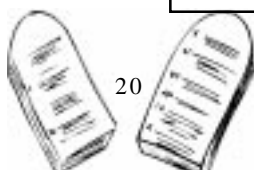


Figure 18 breaks out the October 2000 *Agenda's* 1,054 rules impacting small business by department, agency, and commission.

**Figure 18**  
***Unified Agenda* Entries Impacting Small Business**  
**by Department, Agency, and Commission**  
 (October 2000)

	Total Rules	Number Impacting Small Business			% Impacting Small Business
		RFA* Required	RFA* Not Required	Total	
Dept. of Agriculture	327	26	21	47	14.4%
Dept. of Commerce	390	59	39	98	25.1%
Dept. of Defense	117	2	5	7	6.0%
Dept. of Education	21			0	0.0%
Dept. of Energy	67	1		1	1.5%
Dept. of Health & Human Services	308	50	57	107	34.7%
Dept. of Housing & Urban Development	113			0	0.0%
Dept. of the Interior	418	15	3	18	4.3%
Dept. of Justice	202	6	8	14	6.9%
Dept. of Labor	156	33	7	40	25.6%
Dept. of State	21		2	2	9.5%
Dept. of Transportation	536	32	234	266	49.6%
Dept. of Treasury	450	9	22	31	6.9%
Dept. of Veterans Affairs	141	2	1	3	2.1%
Advisory Council on Historic Preservation	1			0	0.0%
Agency for International Development	6			0	0.0%
Architectural and Transportation Barriers Compliance Board	7	2		2	28.6%
Commission on Civil Rights	1			0	0.0%
Corporation for National & Community Service	6			0	0.0%
Environmental Protection Agency	449	19	186	205	45.7%
Federal Emergency Management Agency	26		1	1	3.8%
General Services Administration	40	1		1	2.5%
National Aeronautics & Space Administration	11			0	0.0%
National Archives & Records Administration	21			0	0.0%
Institute of Museum Services	4			0	0.0%
National Endowment for the Arts	5			0	0.0%
Equal Employment Opportunity Commission	6			0	0.0%
National Endowment for the Humanities	7			0	0.0%
National Science Foundation	5			0	0.0%
Office of Federal Housing Enterprise Oversight	5			0	0.0%
Office of Government Ethics	11			0	0.0%
Office of Management & Budget	5	1		1	20.0%
Office of Personnel Management	110			0	0.0%
Peace Corps	8			0	0.0%
Pension Benefit Guaranty Corporation	10			0	0.0%
Railroad Retirement Board	19			0	0.0%
Selective Service System	1			0	0.0%
Small Business Administration	41	12	12	24	58.5%
Social Security Administration	82			0	0.0%
Tennessee Valley Authority	3			0	0.0%
Federal Acquisition Regulation	56	13		13	23.2%
Commodity Futures Trading Commission	21			0	0.0%



	Total Rules	Number Impacting Small Business			% Impacting Small Business
		RFA* Required	RFA* Not Required	Total	
Consumer Product Safety Commission	20			0	0.0%
Farm Credit Administration	17			0	0.0%
Farm Credit System Insurance Corporation	3			0	0.0%
Federal Communications Commission	137	103	2	105	76.6%
Federal Energy Regulatory Commission	18			0	0.0%
Federal Housing Finance Board	12			0	0.0%
Federal Maritime Commission	9		7	7	77.8%
Federal Reserve System	33	7	1	8	24.2%
National Credit Union Administration	16			0	0.0%
Nuclear Regulatory Commission	55	3		3	5.5%
Office of Special Counsel	3			0	0.0%
Securities and Exchange Commission	77	36	4	40	51.9%
Federal Trade Commission	14	1	8	9	64.3%
Federal Deposit Insurance Corporation	26			0	0.0%
National Indian Gaming Commission	14			0	0.0%
Surface Transportation Board	3			0	0.0%
Federal Mediation and Conciliation Service	2		1	1	50.0%
Udall Inst. for Environmental Conflict Res.	3			0	0.0%
Presidio Trust	3			0	0.0%
<b>TOTAL</b>	<b>4,699</b>	<b>433</b>	<b>621</b>	<b>1,054</b>	<b>22.4%</b>

Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, October 2000.

\*Regulatory Flexibility Analysis

The Department of Transportation (DOT) and the Environmental Protection Agency (EPA) far outstrip other agencies in issuing rules that affect small businesses; of the 1,054 small business rules, the DOT issued 266, the EPA, 205. The runners-up are the Department of Health and Human Services, with 107 rules affecting small business, the Federal Communications Commission, with 105, and the Department of Commerce, with 98. These five agencies together account for 781, or 74.1 percent, of the total number of rules that will affect small businesses.<sup>28</sup>

Overall, the proportion of total rules affecting small business has increased, not decreased, since the passage of the RFA amendments. As noted in Figure 18, the 1,054 small-business rules in 2000 comprise 22.4 percent of the total of 4,699. This level is 5.7 percent higher than the 21.2 percent of rules impacting small business in 1999; in 1996 the level was 16.1 percent.

### FEDERAL REGULATIONS IMPACTING STATE AND LOCAL GOVERNMENTS

*Ten Thousand Commandments* primarily tracks regulations imposed on the private sector. However, a key development that generated interest in regulatory reform during the 1990s was the realization by state and local officials that their own priorities were being overridden by federal mandates.

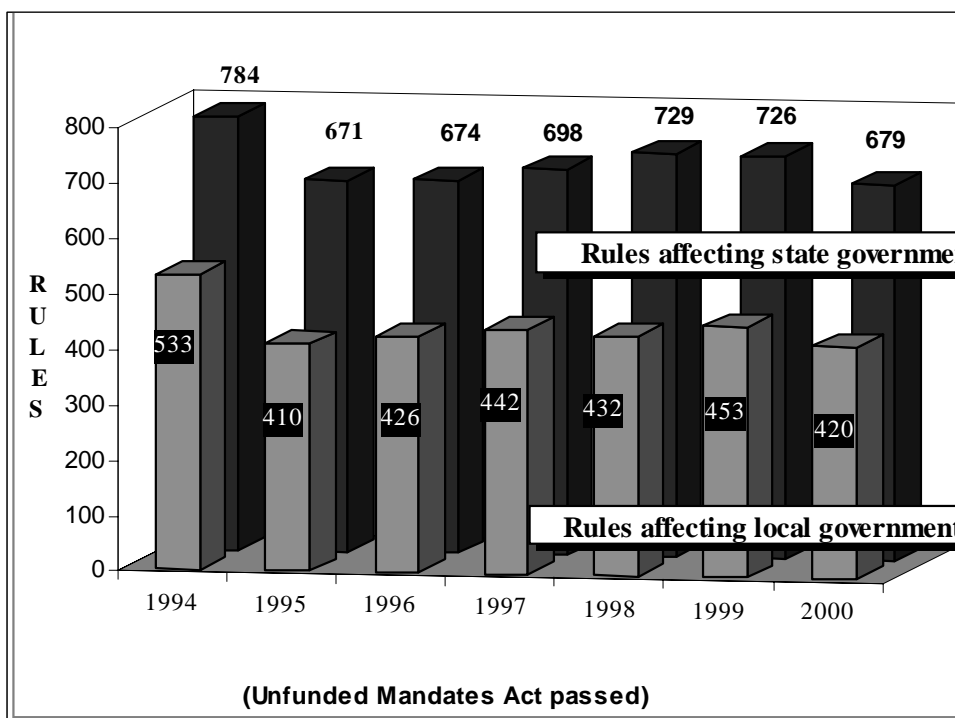
**COSTS TO POLICE  
THE REGULATORY  
STATE BRING  
THE TOTAL  
BURDEN TO  
\$807 BILLION.**



As Figure 19 shows, of the 4,699 rules in the October 2000 *Unified Agenda*, 420 have reportable impacts on local governments. Over the past six years (since 1995), the number of rules impacting local governments has been relatively stable, ranging from 410 to 420. Figure 19 also shows that the total number of regulatory actions impacting state governments has been rather stable as well, rising and then falling while going from 671 to 679. Over the past year, local government rules fell from 453 to 420, while rules impacting state governments dropped from 726 to 679.<sup>29</sup>

(Note that overlap exists between the state and local rules in Figure 19: Many rules impact governments at both the local and state levels, so simply adding together the state and local rules would lead to double-counting. Most of these rules affect the private sector as well.)

**Figure 19**  
**Rules Impacting**  
**State and Local Governments**  
(1994-2000)



Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1994-2000.

FEDERAL REGISTER PAGES ARE AT LEVELS NOT SEEN SINCE THE CARTER ADMINISTRATION.

### GAO DATABASE ON REGULATIONS

The various existing regulatory measures serve different purposes. The *Federal Register* shows the aggregate number of proposed and final rules. The *Unified Agenda* reveals the number of rules at various stages in the regulatory pipeline. Under



the 1996 Congressional Review Act (CRA), agencies are required to submit reports to Congress on their “major” rules (those costing \$100 million or more). Thanks to these reports, of the thousands of final rules that agencies issue each year, one can now rather easily see which among them are major and, perhaps most importantly, which agencies are producing the rules.

Under the CRA, the Government Accounting Office (GAO) reports offer Congress a chance to review a rule for 60 legislative days and, if desired, to pass a resolution of disapproval to reject the rule. But despite the issuance of thousands of rules since the CRA’s passage—among them many dozens of major ones—only one (the Labor Department’s ergonomics rule) has been rejected.

As can be seen in Figure 20, the number of final major rules issued by agencies grew over the past year from 46 to 75—a 63 percent increase. The Department of Health and Human Services, the Department of Agriculture, and the Department of the Interior issued the most major rules in 2000.

**Figure 20**  
**GAO Reports on Major Rules**  
1997-2000

	2000	1999	1998	1997
Environmental Protection Agency	5	5	9	6
Department of the Interior	10	4	5	4
Federal Communications Commission	7	5	17	13
Health and Human Services	13	7	18	6
Department of Energy	3	0	0	2
Securities and Exchange Commission	6	5	5	8
Department of Agriculture	12	5	4	7
Nuclear Regulatory Commission	2	1	2	1
Department of Transportation	3	4	1	2
Department of Justice	0	0	1	2
Federal Reserve	1	0	0	1
Social Security Administration	1	3	0	2
Department of Housing and Urban Dev.	2	1	0	2
Department of Labor	5	0	2	2
Department of Commerce	0	2	1	1
Pension Benefit Guaranty Corp.	0	0	1	0
Department of Treasury	0	0	2	1
Department of Defense	0	1	1	0
Department of Education	0	1	0	0
National Credit Union Administration	0	1	0	0
Emergency Steel Guarantee Loan Board	0	1	0	0
Small Business Administration	1	0	1	0
Federal Emergency Management Agency	2	0	0	0
Federal Trade Commission	1	0	0	0
Office of Personnel Management	1	0	0	0
<b>TOTAL</b>	<b>75</b>	<b>46</b>	<b>70</b>	<b>60</b>

Source: Compiled by author from GAO data.



## REGULATION AND THE EPA

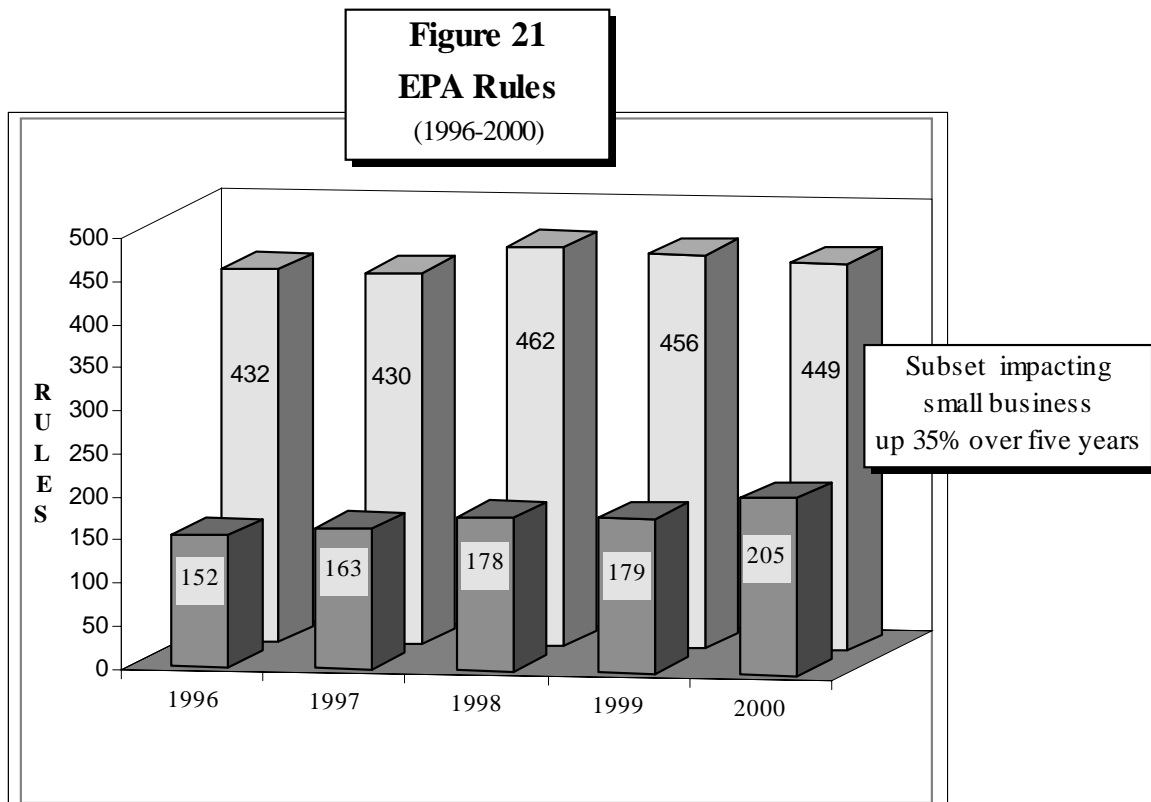
This report has taken a broad look at the extent of government regulation. Also useful is a look at a single agency in isolation to get a feel for regulatory trends. As tales of regulatory excess and abuse go, the EPA always gets its share of the spotlight.

**THE 2000 FEDERAL REGISTER CONTAINED 74,258 PAGES, THE HIGHEST LEVEL SINCE 1980 AND A 4 PERCENT JUMP OVER 1999.**

By several measures, the EPA is a prominent regulator. For example, the EPA spends more than any other agency to enforce regulations. The Center for the Study of American Business reports that the EPA, with \$4.8 billion expected to be spent to enforce regulation during fiscal year 2001, accounts for 24 percent of the \$19.8 billion (in current dollars) expected to be spent by all the regulatory agencies.<sup>30</sup>

### TOTAL RULE GROWTH AND SMALL BUSINESS IMPACTS AT THE EPA

Of the 4,699 rules in the pipeline for 2000, 449, or 9.5 percent, were in the works at the EPA. The number recently has dropped slightly: from 1999 to 2000, the number of EPA rules fell faintly—from 456 to 449. (See Figure 21.) Between 1996 and 1999, the EPA's total number of entries in the *Unified Agenda* pipeline remained rather stable. The agency's total number of economically significant rules in the *Agenda*, as shown back in Figure 15, rose slightly to 31 in 2000, up from 28 the previous year.<sup>31</sup> The EPA's major rules finalized, as compiled from the GAO data and shown above in Figure 20, stayed level at five.



Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1996-2000.



Overall, EPA rule growth has fallen over the past two years. But this should be weighed against high enforcement costs and the thrust of certain highly costly rules. EPA rules on air quality and lead abatement, for example, are among the costliest ever proposed. The lesson, as noted, is that, while fewer rules are a welcome development, fewer rules do not necessarily mean lower costs.

In contrast to the flatness of the level of EPA rules and the fall in the number of major rules, it is worth noting the punch the EPA delivers to small businesses. Also shown in Figure 21 is the subset of the EPA's rules that have some impact on small business. Since 1996, this category of rules has risen from 152 to 205, an increase of 34.9 percent. In addition, the proportion of all EPA rules that affect small business has increased. Of EPA's 449 rules, 205, or 45.6 percent, affect small business. In 1996, 35 percent of the EPA's rules had such impacts.

### **THE IMPACT OF EPA RULES ON STATE AND LOCAL GOVERNMENTS**

Figure 19 earlier showed that, overall, federal agency rules impacting state and local governments have edged upward over the past five years but stand at a lower level than they did in 1994 (prior to the Unfunded Mandates Act). Figure 22 shows that EPA rules impacting state and local governments rose steadily after 1995 but then dropped markedly in the past year.

Interestingly the EPA's rules led to many of the complaints that led to passage of the Unfunded Mandates Act in the first place.

### **ENDING "REGULATION WITHOUT REPRESENTATION": IMPROVING DISCLOSURE AND ENSURING CONGRESSIONAL ACCOUNTABILITY FOR ALL REGULATIONS**

#### **STEPS TOWARD IMPROVING REGULATORY DISCLOSURE**

Federal regulatory compliance costs total hundreds of billions of dollars every year, as the earlier descriptions of the OMB and Hopkins studies showed. While it is certainly true that some regulations may produce overall benefits that exceed overall costs, costs and benefits are known for relatively few regulations. Without any official regulatory accounting it is difficult to know whether society wins or loses from regulations, rendering OMB's estimates of overall net benefits from the regulatory state highly unwieldy. This is why, to the extent possible and on an official basis, regulatory data should be summarized and publicly disclosed. Simultaneously, elected representatives should assume responsibility and put an end to off-budget "regulation without representation" altogether.

While disclosure of regulatory costs should be a priority of regulatory reformers, engaging in a protracted legislative fight over comprehensive reform, such as requiring more net-benefit and risk assessment analysis, should be avoided. A better



incremental step would be to require the publication of a summary of already available, but scattered, data. This simple step alone would help transform today’s regulatory culture from one of nondisclosure and bureaucratic brush-off to one of maximum regulatory disclosure.

As noted, today’s regulations fall into two classes: those that are “economically significant” (cost over \$100 million annually) and those that are not. An obvious problem with this threshold is that reformers can point not to what the regulatory state actually costs but only to a *minimum* level of such costs. Today, agencies need not specify whether any or all of their economically significant rules cost only \$100 million or something far beyond.

To improve disclosure a simple intermediate step would be to redefine the notion of economically significant rules such that they reflect increasing levels of costs. Agencies should be required to break up their economically significant rules into categories that represent increasing costs. Figure 23 presents one alternative that assigns economically significant rules into one of five categories:

**Figure 23**  
**Proposed Breakdown of “Economically Significant” Rules**

Category 1	> \$100 million, < \$500 million
Category 2	> \$500 million, < \$1 billion
Category 3	> \$1 billion, < \$5 billion
Category 4	> \$5 billion, < \$10 billion
Category 5	> \$10 billion

---

FEDERAL REGIS-  
 TER PAGES DE-  
 VOTED TO FINAL  
 RULES ARE UP  
 46 PERCENT  
 OVER THE PAST  
 10 YEARS.

---

Agencies could then categorize their rules based on cost information provided in the Regulatory Impact Analyses accompanying many economically significant rules or in separate internal or external estimates. While modest, this step toward greater disclosure could be highly important.

Other steps can be easily taken. Today, to learn about regulatory trends and accumulate information on rules—such as numbers produced by each agency, their costs and benefits (if available), and so on—interested citizens must typically comb through the *Unified Agenda*’s 1,000-plus pages of small, multicolumn print. Useful regulatory information is often available but too tedious to accumulate.

There is no reason for the *Unified Agenda* to be such an unfriendly document. One modest reform would require that data from the *Agenda* be officially summarized in charts each year. The information could be presented as a chapter in the federal budget, the *Unified Agenda* itself, or in the *Economic Report of the President*.



One way to set up the report would be in the form of a “Regulatory Report Card” like that shown in Figure 24. Information could be added to the report as deemed necessary—for instance, successes or failures of any special initiative, such as the Clinton administration’s Reinventing Government effort. Providing five-year historical data would tremendously enhance the usefulness of the *Unified Agenda*. Paradoxically, one of the virtues of a Regulatory Report Card is that it would reveal more clearly what we *don’t* know about the regulatory state.

**Figure 24**  
**Regulatory Report Card**  
 Recommended Official Summary Data by *Program, Agency, and Grand Total*  
 with five-year historical tables

- “Economically significant” rules by category (see Figure 23) and minor rules by department, agency, and commission
- Numbers/percentages impacting small business and lower-level governments
- Numbers/percentages featuring numerical cost estimates
- Tallies of existing cost estimates, with subtotals by agencies and grand total
- Numbers/percentages lacking cost estimates
- Short explanation for lack of cost estimates
- Percentage of rules reviewed by the OMB, and action taken
- Analysis of the Federal Register: number of pages, proposed and final rule breakdowns by agency
- Numbers of major rules reported on by the GAO in its database of reports on regulations
- Most active rule-making agencies
- Rules that are deregulatory rather than regulatory
- Rules that affect internal agency procedures alone
- Rollover: number of rules new to the *Unified Agenda*; number carried over from previous years
- Numbers/percentages required by statute vs. rules agency discretionary rules
- Numbers/percentages facing statutory or judicial deadlines
- Rules for which weighing costs and benefits is statutorily prohibited

Detailed cost-benefit data are not necessary to begin producing a Regulatory Report Card. While relatively easy to compile, trends in this data would prove vital to scholars, third-party researchers, and Congress. By making agency activity more explicit, a Regulatory Report Card would help ensure that the growth of the regulatory state is taken seriously on an official level.

**“NO REGULATION WITHOUT REPRESENTATION!”**

Years of unbudgeted regulatory growth should be of concern: Rules can do more harm than good, but most often we simply don’t know whether regula-



tory benefits exceed costs. But the real culprits are not the agencies: Congress, our body of elected representatives, shirks its duty to make the tough calls and delegates too much of its lawmaking power to nonelected agencies, and then fails to require that they guarantee net benefits. Thus, agencies can hardly be faulted for not guaranteeing optimal regulation or for not ensuring that only “good” rules get through. Agencies face overwhelming incentives to expand their turf by regulating even in the absence of demonstrated need, since the only measure of an agency’s productivity—other than growth in its budget and number of employees—is the number of regulations. One needn’t waste time blaming agencies for emphasizing the very regulating they were set up to do in the first place. Better to point the finger at Congress.

Since agencies are inherently unaccountable to voters, an annual Regulatory Report Card is a start, but it is not enough. Nor are regulatory reforms—including the comprehensive reforms proposed by some Republicans—that rely on agencies policing themselves. Instead, making Congress directly answerable to the voters for the costs agencies impose on the public is necessary for fully accountable regulation. The way to control regulation is not merely to require agencies to perform cost-benefit analysis but also to require Congress to vote on agencies’ final rules before they are binding on the public.

Congressional accountability for regulatory costs assumes new importance in today’s new era of budget surpluses. If Congress’s alternatives are to spend or to issue new regulations, a balanced budget constraint invites Congress to regulate rather than to increase government spending on a program to accomplish its ends. For example, suppose Congress wanted to create a job training program or otherwise fulfill some promise to the voters. Funding such a program would require approval of a new appropriation through the Department of Labor, and would appear in the *Federal Budget* and reduce the government surplus. On the other hand, Congress could simply pass a law requiring Fortune 500 companies to fund job training. That law, of course, would be carried out through new regulations issued by the Labor Department. The latter option would not add significantly to federal spending but would nonetheless let Congress take credit for good deeds.

By regulating instead of spending, government can expand almost indefinitely without explicitly taxing anyone a single penny. Making Congress accountable for regulation in the same manner it is accountable for ordinary government spending is the only way to head off this sort of manipulation.

Requiring explicit approval of all proposed regulations would ensure that Congress bore direct responsibility to the voters for every dollar of new regulatory costs. As for the concern that Congress will become bogged down approving agency rules, there is no reason why agency regulations cannot be voted on in bundles. Additionally, congressional approval of new regulation can also be given by voice vote rather than by tabulated roll call votes.

---

*75 major rules  
were enacted  
in 2000, a  
63 percent  
increase  
over the year  
before.*

---



Whatever improvements in disclosure are made, however, congressional approval—rather than agency approval—of both regulations and regulatory costs should be the goal of regulatory reform. When Congress ensures transparency and disclosure and finally assumes responsibility for the growth of the regulatory state, it will have put into place a fairer and more rational regulatory system.





# Historical Tables

# Historical Tables, Part A:

## *Federal Register* Page History (1936-2000)\*

Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count	Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count
1936	2,620	not available (n/a)	<b>2,620</b>	1973	35,592	n/a	<b>35,592</b>
1937	3,450	n/a	<b>3,450</b>	1974	45,422	n/a	<b>45,422</b>
1938	3,194	n/a	<b>3,194</b>	1975	60,221	n/a	<b>60,221</b>
1939	5,007	n/a	<b>5,007</b>	1976	57,072	6,567	<b>50,505</b>
1940	5,307	n/a	<b>5,307</b>	1977	65,603	7,816	<b>57,787</b>
1941	6,877	n/a	<b>6,877</b>	1978	61,261	5,565	<b>55,696</b>
1942	11,134	n/a	<b>11,134</b>	1979	77,498	6,307	<b>71,191</b>
1943	17,553	n/a	<b>17,553</b>	1980	87,012	13,754	<b>73,258</b>
1944	15,194	n/a	<b>15,194</b>	1981	63,554	5,818	<b>57,736</b>
1945	15,508	n/a	<b>15,508</b>	1982	58,494	5,390	<b>53,104</b>
1946	14,736	n/a	<b>14,736</b>	1983	57,704	4,686	<b>53,018</b>
1947	8,902	n/a	<b>8,902</b>	1984	50,998	2,355	<b>48,643</b>
1948	9,608	n/a	<b>9,608</b>	1985	53,480	2,978	<b>50,502</b>
1949	7,952	n/a	<b>7,952</b>	1986	47,418	2,606	<b>44,812</b>
1950	9,562	n/a	<b>9,562</b>	1987	49,654	2,621	<b>47,033</b>
1951	13,175	n/a	<b>13,175</b>	1988	53,376	2,760	<b>50,616</b>
1952	11,896	n/a	<b>11,896</b>	1989	53,842	3,341	<b>50,501</b>
1953	8,912	n/a	<b>8,912</b>	1990	53,620	3,825	<b>49,795</b>
1954	9,910	n/a	<b>9,910</b>	1991	67,716	9,743	<b>57,973</b>
1955	10,196	n/a	<b>10,196</b>	1992	62,928	5,925	<b>57,003</b>
1956	10,528	n/a	<b>10,528</b>	1993	69,688	8,522	<b>61,166</b>
1957	11,156	n/a	<b>11,156</b>	1994	68,108	3,194	<b>64,914</b>
1958	10,579	n/a	<b>10,579</b>	1995	67,518	4,873	<b>62,645</b>
1959	11,116	n/a	<b>11,116</b>	1996	69,368	4,777	<b>64,591</b>
1960	14,479	n/a	<b>14,479</b>	1997	68,530	3,981	<b>64,549</b>
1961	12,792	n/a	<b>12,792</b>	1998	72,356	3,785	<b>68,571</b>
1962	13,226	n/a	<b>13,226</b>	1999	73,880	2,719	<b>71,161</b>
1963	14,842	n/a	<b>14,842</b>	2000	83,294	9,036	<b>74,258</b>
1964	19,304	n/a	<b>19,304</b>				
1965	17,206	n/a	<b>17,206</b>				
1966	16,850	n/a	<b>16,850</b>				
1967	21,088	n/a	<b>21,088</b>				
1968	20,072	n/a	<b>20,072</b>				
1969	20,466	n/a	<b>20,466</b>				
1970	20,036	n/a	<b>20,036</b>				
1971	25,447	n/a	<b>25,447</b>				
1972	28,924	n/a	<b>28,924</b>				

Source: Office of the Federal Register, National Archives and Records Administration.

\*Proposed rules were not required to be published prior to the Administrative Procedure Act of 1946.

Rule preambles published only to a limited extent prior to the 1970s.



# Historical Tables, Part B:

## Number of *Federal Register* Documents Published (1976-2000)

Year	Final Rules	Proposed Rules	Other*	Total	Year	Final Rules	Proposed Rules	Other*	Total
1976	7,401	3,875	27,223	38,499	1989	4,714	3,194	22,218	30,126
1977	7,031	4,188	28,381	39,600	1990	4,334	3,041	22,999	30,374
1978	7,001	4,550	28,705	40,256	1991	4,416	3,099	23,427	30,942
1979	7,611	5,824	29,211	42,646	1992	4,155	3,170	24,063	31,388
1980	7,745	5,347	33,670	46,762	1993	4,369	3,207	24,017	31,593
1981	6,481	3,862	30,090	40,433	1994	4,867	3,372	23,669	31,908
1982	6,288	3,729	28,621	38,638	1995	4,713	3,339	23,133	31,185
1983	6,049	3,907	27,580	37,536	1996	4,937	3,208	24,485	32,630
1984	5,154	3,350	26,047	34,551	1997	4,584	2,881	26,260	33,725
1985	4,843	3,381	22,833	31,057	1998	4,899	3,042	26,313	34,254
1986	4,589	3,185	21,546	29,320	1999	4,684	3,281	26,074	34,039
1987	4,581	3,423	22,052	30,056	2000	4,313	2,636	24,976	31,925
1988	4,697	3,240	22,047	29,984					

Source: Office of the Federal Register, National Archives and Records Administration.

\*"Other" documents consist of presidential documents, agency notices, and corrections.

# Historical Tables, Part C:

## *Unified Agenda* Rules History (1983-2000)

### Total Number of Rules Under Consideration

1980s			1990s		
1983	April	2,863	1990	April	4,332
	October	4,032		October	4,470
1984	April	4,114	1991	April	4,675
	October	4,016		October	4,863
1985	April	4,265	1992	April	4,186
	October	4,131		October	4,909
1986	April	3,961	1993	April	4,933
	October	3,983		October	4,950
1987	April	4,038	1994	April	5,105
	October	4,005		October	5,119
1988	April	3,941	1995	April	5,133
	October	4,017		October	4,735
1989	April	4,003	1996	April	4,570
	October	4,187		October	4,680
			1997	April	4,417
				October	4,407
			1998	April	4,504
				October	4,560
			1999	April	4,524
				October	4,568
			2000	October	4,699

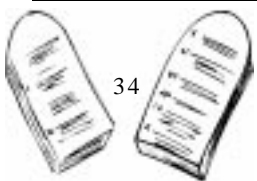
Source: *Unified Agenda of Federal Regulations*, various years; Regulatory Information Service Center.



# Historical Tables, Part D:

## *Unified Agenda* Rules History by Department and Agency (1996-2000 and 1993)

	<b>Oct-00</b>	<b>Oct-99</b>	<b>Oct-98</b>	<b>Oct-97</b>	<b>Oct-96</b>	<b>Oct-93</b>
Dept. of Agriculture	327	345	384	398	450	460
Dept. of Commerce	390	366	344	283	289	283
Dept. of Defense	117	121	142	142	136	135
Dept. of Education	21	32	20	29	49	94
Dept. of Energy	67	64	63	75	81	85
Dept. of Health & Human Services	308	300	351	299	283	384
Dept. of Housing & Urban Development	113	128	102	98	98	221
Dept. of the Interior	418	309	337	321	386	307
Dept. of Justice	202	201	186	185	203	136
Dept. of Labor	156	151	149	132	119	129
Dept. of State	21	27	22	24	18	16
Dept. of Transportation	536	539	518	510	551	541
Dept. of Treasury	450	400	438	458	444	637
Dept. of Veterans' Affairs	141	130	118	108	145	152
Advisory Council on Historic Preservation	1	1	1	1	1	2
Agency for International Development	6	5	7	8	4	3
Architectural and Transportation Barriers Compliance Board	7	8	9	9	7	7
Commission on Civil Rights	1	1	1	1	1	1
Corporation for National & Community Service	6	4	6	2	1	0
Environmental Protection Agency	449	456	462	430	432	362
Federal Emergency Management Agency	26	33	25	22	23	36
General Services Administration	40	51	49	52	42	44
National Aeronautics & Space Administration	11	7	11	17	34	26
National Archives & Records Administration	21	21	19	17	17	16
Institute of Museum Services	4	1	1	2	0	0
National Endowment for the Arts	5	5	5	7	4	6
Equal Employment Opportunity Commission	6	9	10	10	9	7
National Endowment for the Humanities	7	6	6	7	5	6
National Science Foundation	5	4	5	7	3	6
Office of Federal Housing Enterprise Oversight	5	5	4	4	4	0
Office of Government Ethics	11	12	12	13	13	11
Office of Management & Budget	5	9	11	16	15	29
Office of Personnel Management	110	112	101	92	91	89
Panama Canal Commission	0	4	5	6	5	5
Peace Corps	8	5	5	5	6	4
Pension Benefit Guaranty Corporation	10	12	12	10	11	20
Railroad Retirement Board	19	16	17	20	21	18
Selective Service System	1	1	1	1	1	1
Small Business Administration	41	35	25	15	18	77
Social Security Administration	82	67	70	72	73	0
Tennessee Valley Authority	3	1	1	0	1	6
U.S. Information Agency	0	0	1	4	3	4
Federal Acquisition Regulation	56	49	42	49	102	65
Commodity Futures Trading Commission	21	19	12	9	13	21
Consumer Product Safety Commission	20	17	15	14	15	19
Farm Credit Administration	17	19	15	17	21	28
Farm Credit System Insurance Corporation	3	3	3	4	4	0
Federal Communications Commission	137	128	121	98	104	57



	<b>Oct-00</b>	<b>Oct-99</b>	<b>Oct-98</b>	<b>Oct-97</b>	<b>Oct-96</b>	<b>Oct-93</b>
Federal Energy Regulatory Commission	18	20	12	10	14	29
Federal Housing Finance Board	12	18	17	17	18	22
Federal Maritime Commission	9	9	6	3	7	11
Federal Reserve System	33	22	30	36	40	38
Federal Trade Commission	14	16	16	19	17	12
National Credit Union Administration	16	26	14	14	12	21
Federal Deposit Insurance Corporation	26	25	26	31	34	35
National Indian Gaming Commission	14	14	17	16	6	3
National Labor Relations Board	0	0	0	3	5	0
Nuclear Regulatory Commission	55	57	63	62	55	93
Office of Special Counsel	3	2	1	0	0	0
Overseas Private Investment Corporation	0	0	2	0	0	0
Securities and Exchange Commission	77	80	83	79	102	86
Surface Transportation Board	3	3	8	13	13	0
Federal Mediation and Conciliation Service	2	1	1	1	0	0
Thrift Depositor Protection Board	0	0	0	0	0	4
Resolution Trust Corporation	0	0	0	0	0	8
Interstate Commerce Commission	0	0	0	0	0	20
ACTION	0	0	0	0	0	8
Merit Systems Protection Board	0	0	0	0	0	2
Presidio Trust	3	3	0	0	0	0
Udall Institute for Environmental Conflict Res.	3	3	0	0	0	0
Pennsylvania Ave. Development Corp.	0	0	0	0	0	2
<b>TOTAL</b>	<b>4,699</b>	<b>4,538</b>	<b>4,560</b>	<b>4,407</b>	<b>4,679</b>	<b>4,950</b>

Source: Compiled by author from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, various years.



# Historical Tables, Part E:

## Agency Major Rules by Category (1996-1999)

<b>October 1999</b>	<b>Pre-rule</b>	<b>Proposed</b>	<b>Final</b>	<b>Long Term</b>	<b>Completed</b>	<b>TOTAL</b>
Dept. of Agriculture	0	6	6	5	1	<b>18</b>
Department of Commerce	0	1	0	1	0	<b>2</b>
Department of Defense	0	0	0	0	1	<b>1</b>
Dept. of Energy	1	3	0	5	0	<b>9</b>
Dept. of Health & Human Services	0	8	6	3	4	<b>21</b>
Dept. of Housing & Urban Development	0	1	1	0	1	<b>3</b>
Dept. of the Interior	0	0	0	1	1	<b>2</b>
Dept. of Labor	2	5	3	8	0	<b>18</b>
Dept. of Transportation	0	3	2	1	4	<b>10</b>
ATBCB	0	3	1	0	0	<b>4</b>
Environmental Protection Agency	0	11	9	6	2	<b>28</b>
Small Business Administration	0	1	0	0	1	<b>2</b>
Social Security Administration	0	1	0	0	2	<b>3</b>
Federal Acquisition Regulation	0	0	0	0	2	<b>2</b>
Consumer Product Safety Commission	0	1	0	0	0	<b>1</b>
Federal Communications Commission	0	0	0	9	1	<b>10</b>
Office of Federal Housing Enterprise Oversight	0	1	0	0	0	<b>1</b>
Nuclear Regulatory Commission	0	1	0	0	1	<b>2</b>
<b>TOTAL</b>	<b>3</b>	<b>46</b>	<b>28</b>	<b>39</b>	<b>21</b>	<b>137</b>

<b>October 1998</b>	<b>Pre-rule</b>	<b>Proposed</b>	<b>Final</b>	<b>Long Term</b>	<b>Completed</b>	<b>TOTAL</b>
Dept. of Agriculture	0	7	7	1	2	<b>17</b>
Dept. of Energy	2	2	0	5	0	<b>9</b>
Dept. of Health & Human Services	0	2	1	6	0	<b>9</b>
Dept. of Housing & Urban Development	0	0	2	0	0	<b>2</b>
Dept. of the Interior	0	0	0	1	1	<b>2</b>
Dept. of Labor	1	8	3	3	0	<b>15</b>
Dept. of Transportation	0	4	1	0	1	<b>6</b>
ATBCB	0	0	1	0	0	<b>1</b>
Environmental Protection Agency	0	14	13	9	2	<b>38</b>
Small Business Administration	0	5	1	0	1	<b>7</b>
Social Security Administration	0	0	0	0	1	<b>1</b>
Federal Acquisition Regulation	0	0	0	1	0	<b>1</b>
Consumer Product Safety Commission	0	1	0	0	0	<b>1</b>
Federal Communications Commission	0	0	0	7	0	<b>7</b>
Nuclear Regulatory Commission	0	0	0	0	1	<b>1</b>
<b>TOTAL</b>	<b>3</b>	<b>43</b>	<b>29</b>	<b>33</b>	<b>9</b>	<b>117</b>



<b>October 1997</b>	<b>Pre-rule</b>	<b>Proposed</b>	<b>Final</b>	<b>Long Term</b>	<b>Completed</b>	<b>TOTAL</b>
Dept. of Agriculture	0	5	4	3	3	15
Department of Commerce	0	0	1	0	0	1
Dept. of Energy	1	2	2	5	3	13
Dept. of Health & Human Services	0	1	1	0	3	5
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	0	0	1	0	1
Dept. of Justice	0	1	0	0	0	1
Dept. of Labor	2	10	1	3	0	16
Dept. of Transportation	0	5	3	0	0	8
Environmental Protection Agency	1	9	11	12	5	38
Small Business Administration	0	2	1	0	2	5
Social Security Administration	0	0	1	0	0	1
Federal Acquisition Regulation	0	0	0	2	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	0	7	2	9
Office of Federal Housing Enterprise Oversight	0	0	0	0	3	3
Federal Reserve System	0	0	1	0	0	1
Nuclear Regulatory Commission	0	1	0	0	1	2
<b>TOTAL</b>	<b>4</b>	<b>37</b>	<b>29</b>	<b>33</b>	<b>22</b>	<b>125</b>

<b>October 1996</b>	<b>Pre-rule</b>	<b>Proposed</b>	<b>Final</b>	<b>Long Term</b>	<b>Completed</b>	<b>TOTAL</b>
Dept. of Agriculture	0	5	7	3	10	25
Department of Commerce	0	0	0	0	1	1
Dept. of Energy	1	2	3	7	0	13
Dept. of Health & Human Services	0	2	2	0	2	6
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	1	0	0	1	2
Dept. of Labor	1	8	1	1	0	11
Dept. of Transportation	2	2	1	0	1	6
Dept. of Veterans Affairs	0	1	0	0	0	1
Environmental Protection Agency	3	13	14	10	6	46
Federal Emergency Management Agency	0	0	0	1	0	1
Small Business Administration	0	4	0	0	0	4
Social Security Administration	0	0	2	0	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Acquisition Regulation	0	0	0	0	1	1
Federal Communications Commission	0	0	0	8	2	10
Federal Energy Regulatory Commission	0	0	0	0	1	1
Federal Housing Finance Board	0	2	0	0	0	2
Federal Reserve System	0	0	1	0	1	2
Nuclear Regulatory Commission	0	1	0	0	0	1
<b>TOTAL</b>	<b>7</b>	<b>42</b>	<b>34</b>	<b>30</b>	<b>26</b>	<b>139</b>

Source: Compiled by author from *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, various years.





# Historical Tables, Part F:

## Federal Rules Impacting Small Business (1993-99)

	1993	1994	1995	1996	1997	October 1998			October 1999		
						RFA* Required	RFA* Not Required	1998 Total	RFA* Required	RFA* Not Required	1999 Total
Dept. of Agriculture	62	54	54	56	58	46	17	63	27	22	49
Dept. of Commerce	33	46	43	46	29	47	5	52	65	23	88
Dept. of Defense	20	22	27	22	15	2	19	21	2	13	15
Dept. of Education	3	0	0	1	1	0	0	0	0	0	0
Dept. of Energy	9	4	2	2	2	0	0	0	0	0	0
Dept. of Health & Human Services	73	63	59	89	100	52	36	88	45	30	75
Dept. of Housing & Urban Development	34	33	17	9	7	1	0	1	0	1	1
Dept. of the Interior	9	26	21	17	28	28	1	29	28	5	33
Dept. of Justice	16	17	23	27	26	9	1	10	8	6	14
Dept. of Labor	30	40	33	51	39	41	0	41	37	1	38
Dept. of State	1	1	0	2	1	0	0	0	0	0	0
Dept. of Transportation	30	14	24	31	44	30	178	208	33	213	246
Dept. of Treasury	70	69	59	52	50	59	1	60	3	12	15
Dept. of Veterans' Affairs	3	3	3	3	7	6	0	6	5	1	6
Agency for International Development	0	0	1	0	0	0	0	0	0	0	0
Architectural and Transportation Barriers Compliance Board	0	0	0	0	0	3	0	3	2	0	2
Corporation for National & Community Service	0	1	0	0	0	0	0	0	0	0	0
Environmental Protection Agency	85	123	140	152	163	23	155	178	17	162	179
Federal Emergency Management Agency	1	1	3	1	0	0	0	0	0	0	0
General Services Administration	6	7	5	6	3	2	0	2	2	0	2
National Aeronautics & Space Agency	1	1	1	1	0	1	0	1	0	0	0
National Archives & Records Administration	1	1	1	1	1	1	0	1	0	0	0
Equal Employment Opportunity Commission	0	0	0	0	1	2	0	2	0	0	0
National Endowment for the Humanities	0	0	0	0	1	0	0	0	0	0	0
National Science Foundation	0	0	0	0	0	0	0	0	0	0	0
Office of Management & Budget	5	3	4	2	1	1	0	1	2	0	2
Railroad Retirement Board	1	1	2	1	1	0	0	0	0	0	0
Small Business Administration	60	44	62	17	13	20	0	20	12	16	28

	1993	1994	1995	1996	1997	October 1998			October 1999		
						RFA* Required	RFA* Not Required	1998 Total	RFA* Required	RFA* Not Required	1999 Total
Social Security Administration	0	0	4	1	0	0	0	0	0	2	2
US Information Agency	1	0	0	0	0	0	0	0	0	0	0
Federal Acquisition Regulation	7	9	16	20	15	9	2	11	12	4	16
Commodity Futures Trading Commission	1	0	0	0	0	1	0	1	0	0	0
Consumer Product Safety Commission	3	2	1	1	0	0	0	0	0	0	0
Federal Communications Commission	47	47	52	75	70	80	2	82	91	0	91
Federal Energy Regulatory Commission	0	0	1	0	0	0	0	0	0	1	1
Federal Housing Finance Board	1	1	1	0	0	0	1	1	0	0	0
Federal Maritime Commission	0	0	0	0	0	0	5	5	1	3	4
Federal Reserve System	10	9	6	4	2	2	3	5	1	1	2
Federal Trade Commission	2	2	5	7	11	1	9	10	0	10	10
Interstate Commerce Commission	1	0	0	0	0	0	0	0	0	0	0
National Credit Union Administration	2	1	2	1	1	0	0	0	0	0	0
Nuclear Regulatory Commission	9	8	5	8	9	8	0	8	5	0	5
Resolution Trust Corporation	0	1	0	0	0	0	0	0	0	0	0
Securities and Exchange Commission	29	32	34	48	34	22	5	27	35	4	39
<b>TOTAL</b>	<b>666</b>	<b>686</b>	<b>711</b>	<b>754</b>	<b>733</b>	<b>497</b>	<b>440</b>	<b>937</b>	<b>433</b>	<b>530</b>	<b>963</b>

Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, various years.

\*Regulatory Flexibility Analysis



# Historical Tables, Part G:

## Federal Rules Impacting Lower-Level Governments (1994-2000)

	Oct-2000		Oct-1999		Oct-1998		Oct-1997		Oct-1996		Oct-1995		Oct-94	
	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local
Dept. of Agriculture	51	43	67	58	65	54	70	58	84	72	74	61	83	64
Dept. of Commerce	36	13	21	10	18	9	16	9	15	8	12	6	24	17
Dept. of Defense	2	2	2	1	4	3	4	3	4	2	8	6	6	6
Dept. of Education	0	0	0	0	0	0	3	3	3	3	8	5	19	9
Dept. of Energy	15	15	13	12	15	14	18	18	18	16	19	16	18	12
Dept. of Health & Human Services	76	26	71	23	88	23	82	30	47	24	62	20	93	34
Dept. of Housing & Urban Development	9	19	8	13	25	28	24	29	25	29	26	33	66	83
Dept. of the Interior	54	21	55	21	61	20	78	11	98	9	108	8	112	15
Dept. of Justice	25	20	31	24	28	22	26	20	32	26	26	22	22	18
Dept. of Labor	31	24	34	25	32	24	29	15	33	17	22	11	28	14
Dept. of State	2	1	1	1	1	1	1	1	0	0	2	2	2	2
Dept. of Transportation	49	31	50	33	47	29	34	22	42	25	38	26	24	17
Dept. of Treasury	16	8	11	7	16	12	22	16	12	9	13	11	28	23
Dept. of Veterans Affairs	6	1	9	3	7	2	5	0	2	0	2	0	2	1
Advisory Council on Historic Preserv.	1	0	1	0	1	0	1	0	0	0	0	0	0	0
Agency for International Development	1	1	0	0	0	0	0	0	0	0	0	0	1	1
Architectural and Transportation Barriers Compliance Board	4	4	4	4	2	2	1	1	1	1	1	1	1	1
Environmental Protection Agency	228	136	281	173	250	147	228	165	209	148	197	140	190	157
Federal Emergency Management Agency	5	6	5	4	5	3	1	3	3	4	3	4	6	7
General Services Administration	4	1	2	1	5	2	5	4	3	2	5	4	1	4
National Aeronautics & Space Admin.	1	1	0	0	2	2	1	2	5	3	5	3	5	2
National Archives & Records Admin.	5	5	4	4	2	2	2	2	0	0	1	1	4	2
National Endowment for the Arts	1	1	1	1	1	1	2	2	0	0	0	0	2	2
Equal Employment Opportunity Comm.	3	3	3	3	4	4	2	2	1	2	0	2	0	0
National Endowment for the Humanities	1	1	0	0	0	0	1	1	0	0	0	0	2	2
National Science Foundation	1	1	0	0	0	0	1	1	0	0	0	0	1	1
Office of Management & Budget	0	0	0	1	1	2	4	4	2	2	2	2	5	4
Peace Corps	0	0	0	0	0	0	0	0	1	0	1	0	2	1
Railroad Retirement Board	1	0	1	0	1	0	1	0	1	0	1	0	2	1
Small Business Administration	1	1	0	0	2	0	1	0	1	0	1	1	4	4
Social Security Administration	7	3	11	3	9	3	3	0	2	0	3	1	0	0
Tennessee Valley Authority	1	1	0	0	0	0	0	0	0	0	0	0	1	1
U.S. Information Agency	0	0	0	0	0	0	2	2	2	2	2	1	2	2
Federal Communications Commission	27	20	30	22	30	21	21	17	25	21	16	14	10	10
Federal Energy Regulatory Commission	2	2	2	2	0	0	0	0	0	0	4	4	3	3
Federal Reserve System	1	0	1	0	1	0	3	1	0	0	0	0	0	3
Federal Trade Commission	2	0	2	0	2	0	2	0	2	0	3	1	2	1
National Credit Union Administration	0	0	0	0	0	0	0	0	0	0	2	0	4	0
National Indian Gaming Commission	1	0	1	0	1	0	2	0	0	0	0	0	0	0
Nuclear Regulatory Commission	2	2	1	1	1	1	1	1	1	1	1	1	2	2
Securities and Exchange Commission	1	1	2	2	1	0	1	0	0	0	1	1	3	2
Resolution Trust Corporation	0	0	0	0	0	0	0	0	0	0	0	0	0	1
FMCS	0	0	0	0	0	0	0	0	0	0	1	1	1	1
Consumer Product Safety Commission	0	0	0	0	0	0	0	0	0	0	0	0	1	1
CNCS	4	4	1	1	1	1	0	0	0	0	1	1	2	2
Institute of Museum and Library Services	2	2	0	0	0	0	0	0	0	0	0	0	0	0
ACTION	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>State and Local Totals</b>	<b>679</b>	<b>420</b>	<b>726</b>	<b>453</b>	<b>729</b>	<b>432</b>	<b>698</b>	<b>442</b>	<b>674</b>	<b>426</b>	<b>671</b>	<b>410</b>	<b>784</b>	<b>533</b>

Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1994-1999.





## Notes

<sup>1</sup> *A Blueprint for New Beginnings: A Responsible Budget for America's Priorities*, Section X. Summary Tables, Table S-11, Outlay Totals by Function. Available on the Internet at <http://www.whitehouse.gov/news/usbudget/blueprint/budx.html>.

<sup>2</sup> *The Budget and Economic Outlook: Fiscal Years 2002–2011*, January 2001, Congressional Budget Office. Available on the Internet at <http://www.cbo.gov/showdoc.cfm?index=2727&sequence=0&from=7>.

<sup>3</sup> *Report to Congress on the Costs and Benefits of Federal Regulations*, U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, June 2000, Table 4, attachment. Available on the Internet at <http://www.whitehouse.gov/omb/inforeg/2000fedreg-charts.pdf>.

<sup>4</sup> “Regulation: Costs and Benefits,” *The Budget of the United States Government for Fiscal Year 2000*, Office of Management and Budget, February 1, p. 280.

<sup>5</sup> Thomas D. Hopkins, *Regulatory Costs in Profile*, Center for the Study of American Business, Policy Study Number 132, August 1996, p. 10. Also see U.S. Small Business Administration, Office of Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, October 1995, p. 28. Original 1995 dollars are adjusted by the change in CPI between 1995 and 1999, computed from Table No. 768, “Consumer Price Indexes (CPI-U), by Major Groups: 1980 to 1999,” *Statistical Abstract of the United States 2000*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 487. Available on the Internet at <http://www.census.gov/prod/2001pubs/statab/sec15.pdf>.

<sup>6</sup> Prepared Statement of Thomas D. Hopkins, Rochester Institute of Technology, Rochester, New York, Before the House Government Reform and Oversight Committee, National Economic Growth, Natural Resources, and Regulatory Affairs Subcommittee, May 16, 1996. See also Hopkins, August 1996, p. 4.

<sup>7</sup> See Hopkins, August 1996, p. 5.

<sup>8</sup> These breakdowns are available in Hopkins, August 1996, p. 10; U.S. Small Business Administration, October 1995, Table 3, p. 28; and also Thomas D. Hopkins, *Profiles of Regulatory Costs: Report to the Small Business Administration*, November 1995, Appendix A, Table A-1. Hopkins’s original data appear in 1995 dollars; Figure 3 in this paper adjusts them by the change in the CPI between 1995 and 1999.

<sup>9</sup> *The Budget and Economic Outlook*. Available at <http://www.cbo.gov/showdoc.cfm?index=2727&sequence=2>.

<sup>10</sup> *The Budget and Economic Outlook*. Available at <http://www.cbo.gov/showdoc.cfm?index=2727&sequence=2>.

<sup>11</sup> Individual income tax figures from Table No. 534, “Federal Receipts by Source: 1990 to 2000,” *Statistical Abstract of the United States 2000*, p. 341.

<sup>12</sup> *Ibid.*

<sup>13</sup> Corporate profits from Table No. 897, “Corporate Profits, Taxes, and Dividends: 1990 to 1999,” *Statistical Abstract of the United States 2000*, p. 559. Available on the Internet at <http://www.census.gov/prod/2001pubs/statab/sec17.pdf>.

<sup>14</sup> GNP figures for Canada and Mexico are from Table No. 1364, “Gross National Product by Country: 1998,” *Statistical Abstract of the United States 2000*, p. 831.

<sup>15</sup> *The Budget and Economic Outlook*. Figures available at <http://www.cbo.gov/showdoc.cfm?index=2727&sequence=3>.

<sup>16</sup> “New Study Profiles Total Tax Burden of Median American Family,” Tax Foundation press release, March 9, 2000. Available on the Internet at <http://www.taxfoundation.org/prmedianfamily.html>.

<sup>17</sup> Hopkins, 1995, Appendix A, Table A-2, “Federal Receipts and Regulatory Costs Per Household in 1995 Dollars, Case A.” Since 1998 tax figures are the latest available, Hopkins’s 1995 dollars are adjusted by the change in the CPI between 1995 and 1998.

<sup>18</sup> Melinda Warren, *Federal Regulatory Spending Reaches a New Height: An Analysis of the Budget of the United States Government for the Year 2001*, Center for the Study of American Business, Regulatory Budget Report 23, June 2000, Table A-5, p. 18. Original 1996 constant dollars used by CSAB are in this report adjusted by the change in CPI between 1996 and 1999, computed from Table No. 768, “Consumer Price Indexes (CPI-U), by Major Groups: 1980 to 1999,” *Statistical Abstract of the United States 2000*, p. 487.

<sup>19</sup> *Ibid.* This figure is also inflated by the change in CPI.

<sup>20</sup> For a history of *Federal Register* page totals going all the way back to 1936, see Historical Tables, Part A: *Federal Register* Page History [1936–2000].

<sup>21</sup> For the numbers of proposed and final rules and other documents issued in the *Federal Register* since 1976, see Historical Tables, Part B: Number of *Federal Register* Documents Published [1976–2000].



<sup>22</sup> *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, Regulatory Information Service Center, reprinted from *Federal Register* of Thursday, November 30, 2000, Volume 65, No. 231, October 2000.

<sup>23</sup> Though the *Agenda* is published twice a year, this document tracks each year's October edition. The Historical Tables found in the appendices contain data for April of certain years. For a history of numbers of rules in the *Unified Agenda* since 1983, see Historical Tables, Part C: *Unified Agenda* Rules History [1983–2000].

<sup>24</sup> For numbers of rules by department and agency from previous editions of the *Unified Agenda*, see Historical Tables, Part D: *Unified Agenda* Rules History by Department and Agency [1996–2000 and 1993].

<sup>25</sup> For breakdowns of economically significant rules by agency and category for recent years, see Historical Tables, Part E: Agency Major Rules by Category [1996–1999].

<sup>26</sup> *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, Regulatory Information Service Center, October 1997, p. 57006.

<sup>27</sup> *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions* Regulatory Information Service Center, October 1998, p. 62813.

<sup>28</sup> For the numbers of rules impacting small business broken down by department and agency for October *Agendas* since 1993, see Historical Tables, Part F: Rules Impacting Small Business [1993–1999].

<sup>29</sup> For breakdowns of the numbers of rules impacting state and local governments by department and agency over the past several years' October *Agendas*, see Historical Tables, Part G: Federal Rules Impacting Lower-Level Governments [1994–2000].

<sup>30</sup> Calculated from Melinda Warren, Table A-1, pp. 9-10.

<sup>31</sup> See Historical Tables, Part E, for 1999 major rule data on EPA and other agencies.



## ABOUT THE AUTHOR

Clyde Wayne Crews, Jr., is an Adjunct Scholar at the Competitive Enterprise Institute and the Director of Technology Studies at the Cato Institute, where he studies Internet and technology regulation, antitrust, and other regulatory reforms. Wayne has published in *The Wall Street Journal*, *Forbes*, *The Journal of Commerce*, *American Enterprise*, *The Washington Times*, *Policy Sciences*, *The Electricity Journal*, *Public Utilities Fortnightly*, *Journal of Regulation and Social Costs*, and others. He has appeared on various television and radio programs. Earlier, Wayne was a legislative aide in the United States Senate, responsible for regulatory and welfare reform issues. He has been an economist and policy analyst at the Citizens for a Sound Economy Foundation, an economist at the Food and Drug Administration, and a research assistant at the Center for the Study of Public Choice at George Mason University. He holds an M.B.A. from the College of William and Mary and a B.S. from Lander College in Greenwood, South Carolina. Wayne can be reached at (202) 218-4602 or by e-mail at [wcrews@cato.org](mailto:wcrews@cato.org).

