



TEN THOUSAND COMMANDMENTS

AN ANNUAL SNAPSHOT
OF THE
FEDERAL REGULATORY STATE

2003 EDITION

CLYDE WAYNE CREWS JR.

Ten Thousand Commandments

An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews Jr.

Executive Summary

In the fiscal year 2004 federal budget, President Bush proposed \$2.23 trillion in discretionary, entitlement, and interest spending. Although those 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. Firms generally pass along to consumers some of the costs of the taxes they are required to pay. Similarly, some of the costs of regulations, although generally imposed on businesses, get passed on to consumers. But governmental and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits, some 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 2002 *Federal Register* contained an all-time record 75,606 pages, a nearly 9 per-

cent increase over 2001.

- In 2002, 4,167 final rules were issued by agencies.
- Whereas regulatory agencies issued 4,167 final rules, Congress passed and the president signed into law a comparatively low 269 bills in 2002.
- In the 2002 *Unified Agenda*, agencies reported on 4,187 regulations that were at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions, a decrease of 7 percent from the previous year.
- Of these 4,187 regulations now in the regulatory pipeline, 135 are “economically significant” rules that will have at least \$100 million in economic impact. Those rules will impose at least \$13.5 billion yearly in future off-budget costs.
- Economically significant rules in the works decreased 9 percent between 2001 and 2002, from 149 to 135.
- The five most active rule-producing agencies (the Departments of Transportation, Treasury, Agriculture, and Interior and the Environmental Protection Agency) account for 50 percent of all rules under consideration.

Clyde Wayne Crews Jr. is director of technology studies at the Cato Institute. Previous editions of Ten Thousand Commandments were published by Citizens for a Sound Economy, the Journal of Regulation and Social Costs, and the Competitive Enterprise Institute.

True accountability would uphold citizens' rights to "no regulation without representation."

- Of the 4,187 regulations now in the works, 892 affect small business. Rules affecting small business are down 10 percent over the past year and down 5 percent over the past five years.
- The Office of Management and Budget's latest report on the costs and benefits of federal regulations finds cumulative 1992–2002 costs of "major" regulations to be between \$38 and \$44 billion, while noting costs of all rules could be more than 10 times larger.
- Based on a more broadly constructed competing compilation of annual regulatory costs by economists Thomas Hopkins and Mark Crain, regulatory costs hit an estimated \$860 billion in 2002, an amount equivalent to 43 percent of all FY 2002 outlays.
- Regulatory costs are five times the \$158 billion budget deficit.
- Regulatory costs of \$860 billion are equivalent to 8.2 percent of U.S. gross domestic product, estimated at \$10,443 billion for 2002.
- Federal regulatory costs of \$860 billion combined with outlays of \$2,011 billion bring the federal government's share of the economy to 27 percent.
- Regulatory costs also exceed all corporate pretax profits, which were \$699 billion in 2001.
- Regulatory costs rival estimated 2002 individual income taxes of \$949 billion, and are far greater than corporate income taxes of \$201 billion.
- On the basis of estimates from the Weidenbaum and Mercatus Centers, agencies spent \$25 billion merely to administer and police the regulatory state in 2002, 14 percent more than the previous year. Counting the \$860 billion in off-budget costs, that brings the total regulatory burden to \$885 billion.

The U.S. government has conclusively ended its recent short-lived string of budgetary surpluses—the first surpluses in decades. But if regaining and maintaining a

true surplus remains a priority, policymakers must seek to control regulatory costs. Think of it this way: Following deficits through 2006, the maximum surplus projected by the Congressional Budget Office over the coming decade is (a highly dubious) \$508 billion in 2013. But regulatory costs of more than \$800 billion already well exceed that amount. 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, regulating will continue to look like an attractive alternative to 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—of federal regulations. 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, those agency analyses could be subjected to third-party review. Nonetheless, agencies are rarely likely to admit that the 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 become binding. Vital for true accountability, this step would uphold 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. Rather simple "regulatory report cards," in some respects like the presentation in *Ten Thousand Commandments*, can be issued officially each year by the federal government to distill regulatory data.

Introduction: Toward Ending “Regulation without Representation”

The federal government funds programs in three primary ways. The first is by raising taxes to pay for new programs. The second is by borrowing money to pay for them (with a promise to pay back the 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 they cost by looking at the federal budget. Congress is largely held accountable for spending programs, and that accountability, though not perfect, is a fundamental, necessary condition for controlling government.

The third way the government funds its programs is by regulating. 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. That process sometimes allows Congress to escape accountability and to blame agencies for costs. Since disclosure of and accountability for the costs of regulation are limited, there is limited incentive for policymakers to care about the extent of regulatory costs, or where those costs stand in relation to ordinary government spending. Since regulatory costs are unbudgeted and lack the formal presentation to the public and media to which ordinary federal spending is subject, 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. Table 1 provides perspective on the level of the hidden regu-

By regulating the government can carry out desired programs but avoid using tax dollars to fund them.

Table 1
The Regulatory State: An Overview

	2002	1-Year Change	5-Year Change (98–02)	10-Year Change (93–02)
Total regulatory costs	\$860 billion	NA	NA	NA
Agency enforcement budgets (real \$)	\$25.4 billion	14.4%	33%	44.3%
Net Federal Register pages	75,606	8.6%	10.2%	23.6%
Federal Register pages devoted to final rules	19,233	-18%	-4%	6.8%
Federal Register final Rule	4,167	.8%	-14.9%	-4.6%
Total rules in Agenda	4,187	-7.1%	-8.2%	-15.4%
"Economically significant" rules in the pipeline	135	-9.4%	15.4%	NA
Rules impacting small business	892	-10.4%	-4.8%	NA
Rules impacting state governments	539	-11.3%	-26.1%	NA
Rules impacting local governments	363	-2.7%	-16%	NA
Major rules finalized by agencies	51	-29.2%	-27.1%	NA
Total number of EPA rules in Agenda	409	-1.7%	-11.5%	NA
EPA rules impacting small business	167	-9.7%	-6.2%	NA

Note: NA = not applicable.

Regulatory costs impose a higher burden on small firms, where per employee costs are higher.

latory “tax” by presenting summary data for selected topics described in this report. Trends over the past few years are provided where information is available.

The 2003 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 with the federal budget and the gross national product.
- An analysis of trends in the numbers of regulations issued by agencies, based on data and information provided in the *Federal Register* and in *The Regulatory Plan 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 that contains historical tables of 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’s 2003 draft report on the costs and benefits of federal regulations finds cumulative 1992–2002 costs of “major” regulations to be between \$38 and \$44 billion, while noting costs of all rules could be more than 10 times larger. Meanwhile, the estimated range for benefits was \$135 billion to \$218 billion.¹

Note, however, that OMB’s cost/benefit breakdown used only benefits and costs that agencies took time to put in quantitative and monetary terms.² In any event, cost/benefit analysis is highly sensitive to basic assumptions made about how regulations translate to benefits.

As for an overall cost estimate, W. Mark

Crain of George Mason University and Thomas D. Hopkins of the Rochester Institute of Technology prepared an estimate of regulatory costs for 2000 for the Small Business Administration.³ Their report assessed social and environmental costs as well as costs of economic regulations (such as price and entry restrictions), “transfer” costs (such as farm price supports, which shift money from one pocket to another), and paperwork costs (such as tax compliance). It found 2000 regulatory costs of \$843 billion. (That estimate also is largely in line with the \$815 billion predicted for 2000 by Hopkins in a 1995 report for the Small Business Administration).⁴

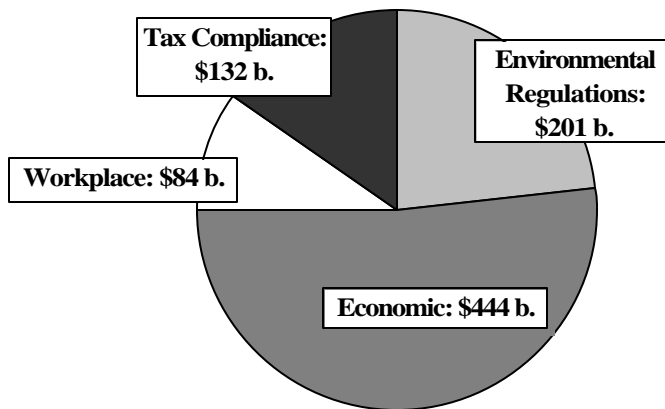
Updating the Crain and Hopkins 2000 regulatory costs for 2002 by extrapolating the growth in regulatory costs between 1995 and 2000 yields an estimate of \$860 billion.⁵ Figure 1 breaks down the regulatory cost estimate by category: environmental, economic, workplace, and tax compliance. Economic costs, the largest category at \$444 billion, include such items as price and entry controls on business and losses from economic transfers.⁶ Given that indirect costs—such as the impacts of lost innovation or productivity—are not included in the Crain and Hopkins analysis, these figures could understate the total regulatory burden.⁷ Regulatory benefits are beyond the scope of the Crain and Hopkins analysis, although those benefits would be recognized as offsetting some costs.⁸

Crain and Hopkins also argue that regulatory costs impose a higher burden on small firms, where per employee costs are higher. Table 2 shows, for 2000, how per employee costs for firms of fewer than 20 workers can be more than 50 percent greater than for large firms.

Regulation vs. Government Spending

After nearly three decades of deficit spending, the federal government’s budget was temporarily balanced from fiscal years 1998 through 2001. Indeed, Washington posted a total surplus of \$127 billion in fiscal year 2001.⁹ But in fiscal year 2002 there was a deficit of \$158 billion on just over \$2 trillion in spending; and according to the Congress-

Figure 1
2002 Federal Regulatory Costs: \$860 Billion



Source: Extrapolated from W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, www.sba.gov/advo/research/rs207tot.pdf.

Table 2
Per Employee Regulatory Costs Higher for Small Firms, 2000

Size of Firm	Regulatory Costs per Employee
Large	
>500 employees	\$4,464
Medium	
20–499 employees	\$4,319
Small	
<20 employee	\$6,975

Source: Derived from W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, Table 1, www.sba.gov/advo/research/rs207tot.pdf.

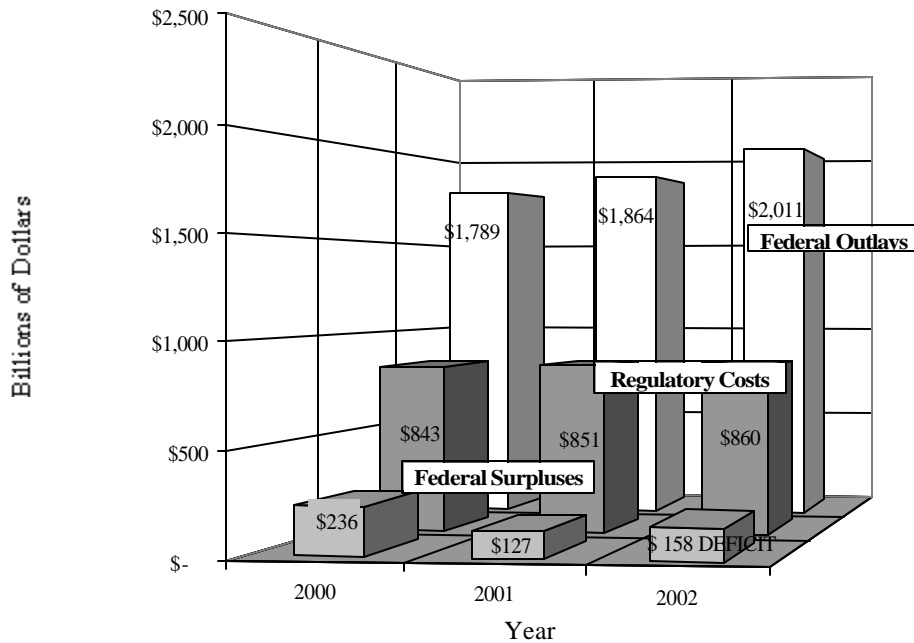
ional Budget Office, deficits are projected at least through FY 2006.¹⁰

As Figure 2 shows, 2002’s \$860 billion in regulatory costs is equivalent to 43 percent of spending of \$2,011 billion, and five times the \$158 billion deficit. Figure 2 also depicts the 2000 and 2001 surpluses (now a thing of the past) compared with regulatory costs for those years.¹¹ Deficit spending, in a manner of speaking, can also manifest itself as regulatory compliance costs that go largely unacknowledged by the federal government.

Regulatory Costs vs. Income Taxes and Corporate Profits

Regulatory costs exceed revenue from most major taxes. Regulatory costs stand to the shoulder of estimated 2002 individual income taxes, which were \$949 billion, as Figure 3 shows.¹² Corporate taxes, estimated at \$201 billion that year, are greatly outdistanced by regulatory costs.¹³ Regulatory costs surpass even pretax corporate *profits*, \$699 billion in 2001.¹⁴

Figure 2
Off-Budget Regulatory Costs Compared with Projected Federal Spending (2000–02)



Sources: Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2004–2013*, Chapter 1, p. 4, <ftp://ftp.cbo.gov/40xx/doc4032/Chapter1.pdf>; and W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, www.sba.gov/advo/research/rs207tot.pdf.
 Notes: Regulatory costs for 2001 and 2002 are projected on the basis of average annual increases in regulatory costs between 1995 and 2000 from Hopkins, 1995. Federal surplus/deficit and outlay numbers are by fiscal year; regulatory costs are by calendar year.

U.S. regulatory costs of \$860 billion exceed the output of many entire national economies.

To put regulation into further perspective, U.S. regulatory costs of \$860 billion exceed the output of many entire national economies. As shown in Figure 4, U.S. regulatory costs exceed the entire 2000 GDP of Canada, which stood at \$701 billion. The regulatory burden also exceeded Mexico’s GDP of \$574 billion.¹⁵

Total regulatory costs of \$860 billion are substantial—8.2 percent of U.S. GDP. (The Congressional Budget Office has estimated GDP to be \$10,443 billion for calendar year 2002.)¹⁶ Combined with direct federal FY 2002 outlays of \$2,011 billion, the federal government’s share of the economy is some 27 percent.

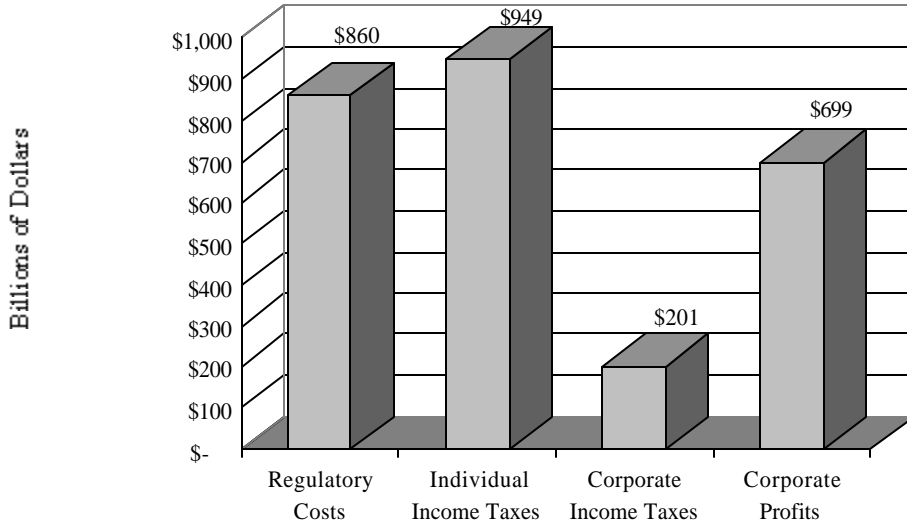
Costs of Administering the Regulatory State

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—the on-budget amounts spent by federal agencies to produce rules and police regulatory compliance. The Weidenbaum Center at Washington University in St. Louis and the Mercatus Center at George Mason University together examine the federal budget and excerpt and compile the administrative costs of developing and enforcing regulations. Since those funds are amounts that taxpayers pay to support agencies’ administrative budgets, rather than compliance costs paid by the parties that are regulated, they are disclosed in the federal budget.

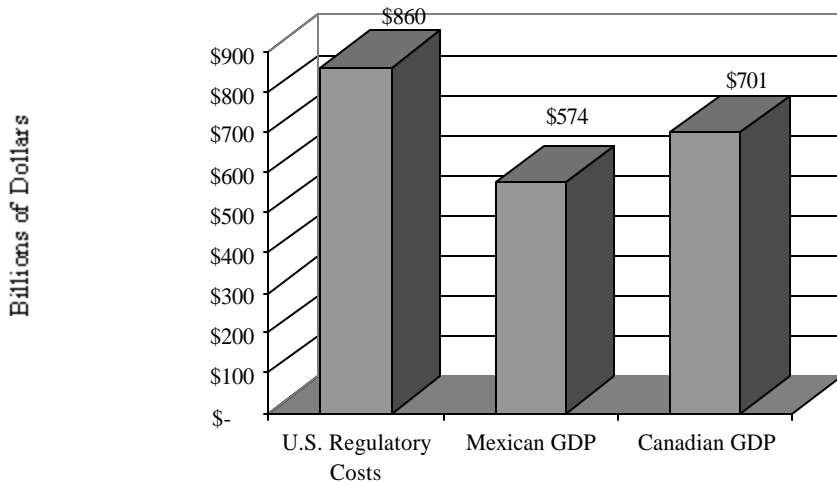
The estimate of FY 2002 enforcement costs incurred by federal departments and agencies reached a record high of \$25.4 billion (constant 2001 dollars), an increase of 14

Figure 3
Regulatory Costs Compared with Individual Income Taxes, Corporate Income Taxes, and Corporate Pretax Profits



Sources: W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, www.sba.gov/advo/research/rs207tot.pdf. Source for taxes and profits: U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 454, p. 308, and Table 743, p. 495.

Figure 4
U.S. Regulatory Costs Compared with Mexico’s and Canada’s GDP



Sources: W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, www.sba.gov/advo/research/rs207tot.pdf. GDP figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 1320, p. 834, <http://www.census.gov/prod/2003pubs/02statab/intlstat.pdf>.

The *Federal Register* is the daily depository of all proposed and final federal rules and regulations.

percent over the previous year (Figure 5).¹⁷ Of that amount, \$5.1 billion was spent administering economic regulation. The larger amount spent for writing and enforcing social and environmental regulations rose from \$17.3 billion to \$20.3 billion.

The enforcement cost numbers help fill in the picture of the regulatory state. Adding the \$25 billion in administrative costs tabulated by the Weidenbaum and Mercatus Centers to the Crain and Hopkins \$860 billion estimate for compliance costs brings the total 2002 regulatory burden to \$885 billion. (The CSAB expects total regulatory enforcement costs for FY 2003 to decline to \$24.4 billion.)¹⁸

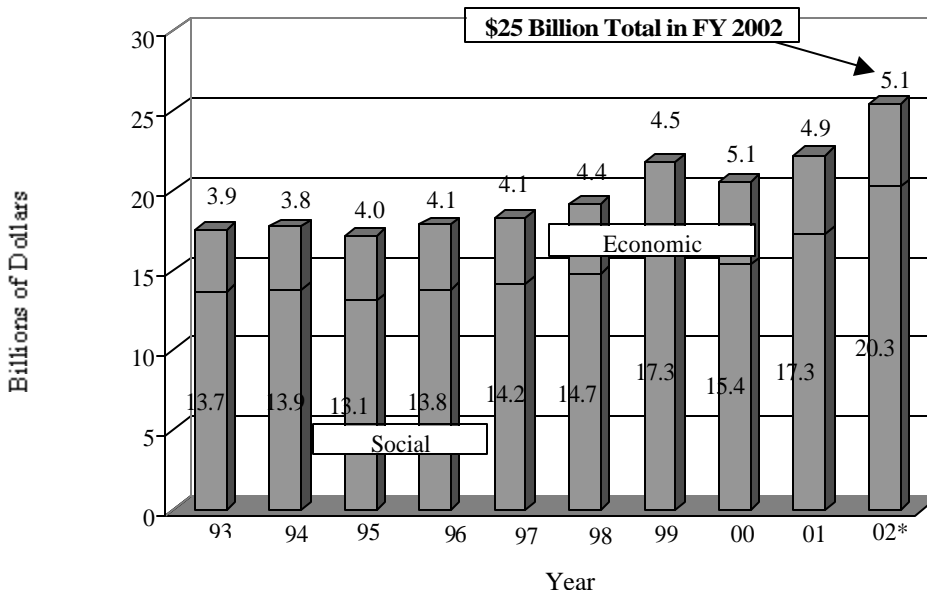
Federal agency staff employed to write and enforce regulations is also on the rise. Estimated full-time-equivalent employment staffing reached 135,970 in FY 2002, according to Weidenbaum and Mercatus, an 8 percent increase over 2001.¹⁹

***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 the number of pages alone as a proxy for the level of regulation, of course. The wordiness of rules will vary, affecting the number of pages and obscuring the real impacts of the underlying rules. A short rule could be very costly and a long one relatively cheap. Administrative notices, corrections, presidential statements, and other material are contained in the *Register*. Blank pages appear as a result of the Government Printing Office's imperfect prediction of the number of pages an agency will require.

Figure 5
Agency Enforcement Budgets, 1993–2002 (billions of constant 2001 dollars)



Source: Susan Dudley and Melinda Warren, “Regulatory Response: An Analysis of the Shifting Priorities of the U.S. Budget for Fiscal Years 2002 and 2003,” Regulatory Budget Report 24, Published jointly by the Weidenbaum Center and the Mercatus Center, June 2002. Original 1996 constant dollars are adjusted by the change in the consumer price index between 1996 and 2001, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 681 p. 451.

Nonetheless, it is surely worthwhile to track the *Register's* growth via pages, provided the appropriate caveats are kept in mind. As Figure 6 shows, in 2002 the number of pages rose to 75,606 from 69,591 the year before, a 9 percent increase. This is an all-time record for the *Federal Register*, and notable because it tops the previous record of 74,258 pages in 2000—President Clinton's last year and a year in which he was charged with pushing through "midnight regulations" prior to Bush's arrival.²⁰ From 1993 to 2002 the overall page count increased 24 percent. (For a history of *Federal Register* page totals going back to 1936, see Appendix: Historical Tables, Part A.)

It is apparent that, in terms of page counts, regulation and agency activity are expanding; this is in spite of the takeover of Congress by presumably more deregulatory Republicans in 1995. What ultimately happens now that President George W. Bush is in office remains to be seen. Aside from the dip during Bush's first year, the last time the number of *Federal Register* pages fell notably was in 1995, when the new influx of

Republican congressional reformers kept a watchful eye on the number of *Federal Register* pages and cited the number frequently as a proxy for the level of regulation. (A partial federal government shutdown, which slowed the promulgation of new regulations for a time, also contributed to the drop during that year.)

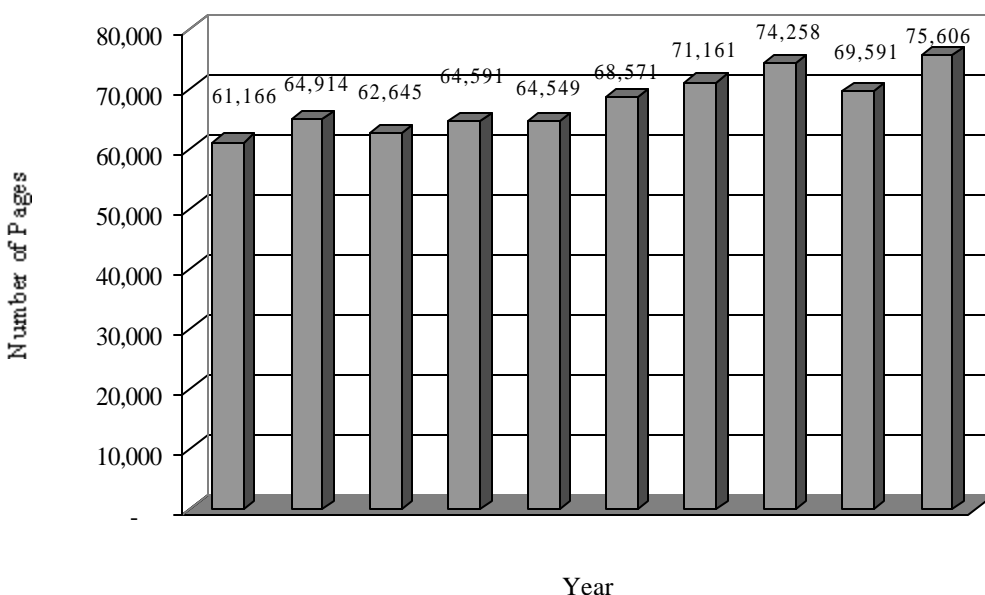
Federal Register Pages Devoted to Final Rules

Overall page counts alone do not tell one whether actual regulatory burdens have increased or decreased; as noted, a rule of a few short pages might impose a significant burden. Isolating the pages that are devoted specifically to *final* rules may be a bit more informative, since this approach omits pages devoted to proposed rules, agency notices, corrections, and presidential documents.

Despite some substantial ups and downs, pages in the *Federal Register* devoted to final rules have increased a slight 7 percent since 1993 (from 18,016 to 19,233) (Figure 7). The drop since Clinton's final year in office has been quite noteworthy. The 2000 count of

In 2002 the number of pages rose to 75,606 from 69,591 the year before, a 9 percent increase. This is an all-time record for the *Federal Register*.

Figure 6
Number of *Federal Register* Pages, 1993–2002



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

**The CFR contains
42 percent more
pages now than it
did in 1980.**

24,482 pages under Clinton was the largest since 1976, when the *Federal Register* page count breakdown by category began. Note that the 2000 count of 24,482 was up 21 percent over the 1999 count, again possibly due to an effort by President Clinton to push a backlog of rules through before the arrival of the Bush administration. While pages have declined over the past two years, 19,000 pages is still a lot of new regulation.

Another interesting way of looking at *Federal Register* page trends in terms of agency activity is the pages per decade. During all of the 1990s, the total number of *Register* pages published was 622,000 (see Figure 8). The total number of *Federal Register* pages during the 1980s was 529,000. (The busiest year in the 1980s was the 1980 peak of 73,000 pages.) So far, in the first three years of the new century,²¹ the average is 73,152, which, extrapolated across the remainder of the decade, implies that 730,000 total pages will be published in the *Federal Register* during the decade.

These are extraordinarily high numbers.

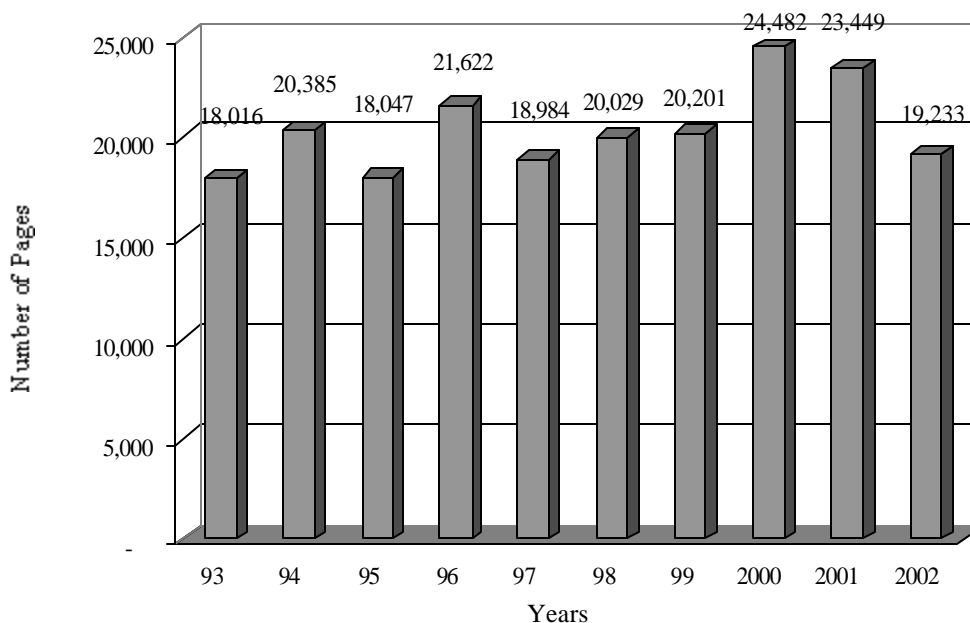
Although the final codification of general and permanent rules in the *Code of Federal Regulations* appears considerably more modest in terms of numbers (if not in costs), the CFR contains 42 percent more pages now than it did in 1980. Since 1980, the CFR has grown from 102,195 pages to 145,099. By contrast, in 1960, there were only 23,000 pages.

Despite the caveats discussed above, it is reasonable to suppose that the higher overall number of pages compared with past decades, and an output of pages devoted to final rules that has averaged well over 20,000 annually, genuinely signify higher levels of final rule costs.

Number of Proposed and Final Rule Documents in the *Federal Register*

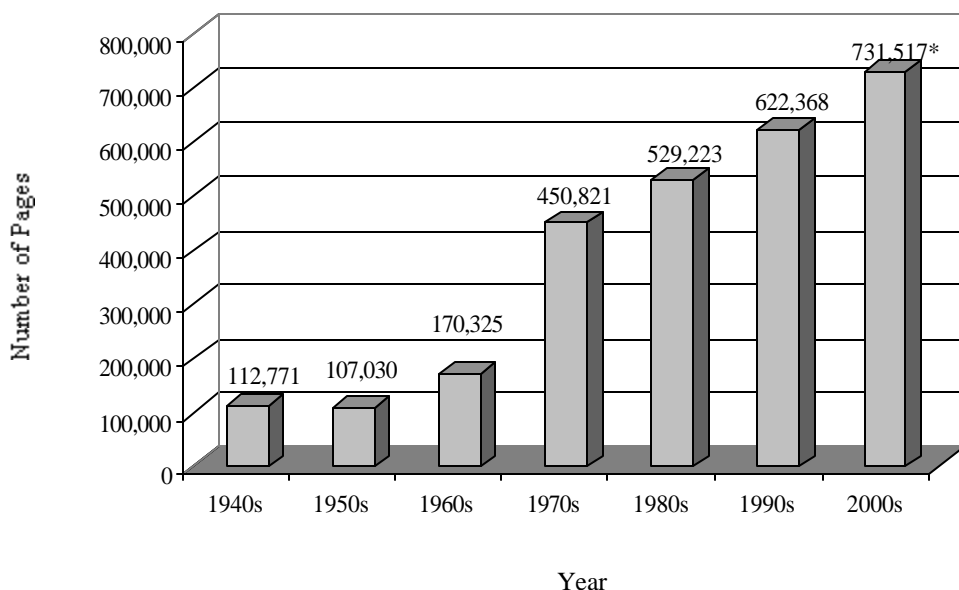
The actual numbers of proposed and final rules in the *Federal Register* deserve attention. As can be seen in Figure 9, in 2002 the total number of proposed and final rules published rose slightly, to 6,802. That represents a slight (2 percent) increase over the previous

**Figure 7
Federal Register Pages Devoted to Final Rules**



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

Figure 8
New Federal Register Pages per Decade



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

* Projection based on three-year average.

year in the number of rules published in the *Register*.

The number of rules actually finalized in 2002 rose slightly. As Figure 9 also shows, final regulations issued by agencies stood at 4,167 in 2002, which was just slightly above the 2001 count of 4,132. The number of final rules currently being published is slightly lower than throughout the 1990s. The average number of annual regulations in the 1990s was 4,596. So far, the average for the current decade (2000–03) is 4,204. (For the numbers of proposed and final rules and other documents issued in the *Federal Register* since 1976, see Appendix: Historical Tables, Part B.)

The cumulative impact of such regulation can matter a great deal however, despite a slight decline. The bottom line is that the annual outflow of well above 4,000 final rules has meant *more than 36,000 final rules have been issued from 1995 to 2002*—that is, since the Republican takeover of Congress. It must be remembered, however, that the costs of those rules can vary tremendously.

Analysis of the *Regulatory Plan* and *Unified Agenda*

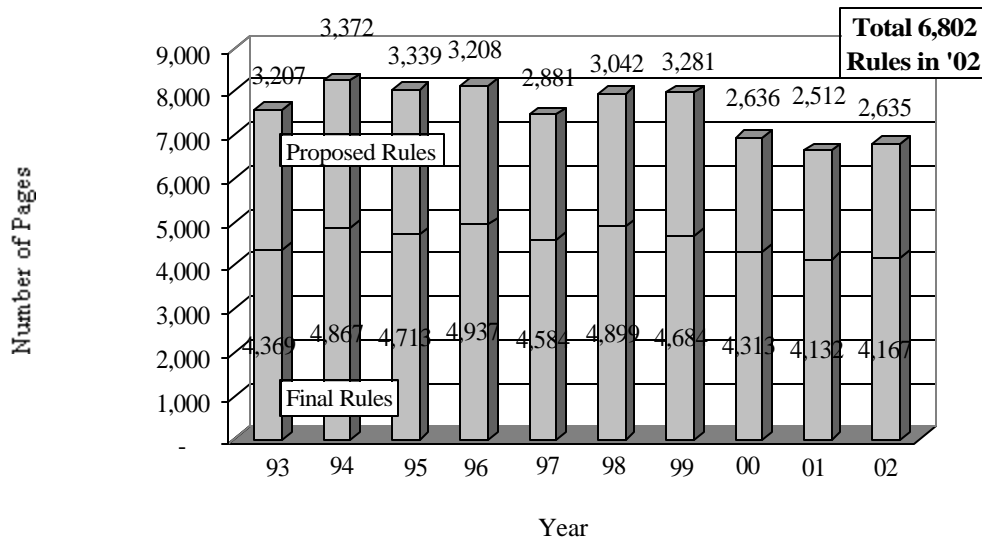
4,187 New Rules in the Pipeline

The Regulatory Plan and the Unified Agenda of Federal Regulations appears in the *Federal Register* each April and October. The *Agenda* details rules recently completed as well as those anticipated within the upcoming 12 months by the roughly 60 federal departments, agencies, and commissions. In that way, the *Agenda* serves as a gauge of what's in the regulatory pipeline.

The *Agenda* lists federal regulatory actions at several stages: prerule, proposed and final rules, actions completed during 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; therefore the rules it contains may carry over at the same stage from one year to the next, or they may reappear in subsequent *Agendas* at different stages. The *Agenda's* 4,100-plus rules affect the private

The annual outflow of well over 4,000 final rules has meant *more than 36,000 final rules have been issued from 1995 to 2002*—that is, since the Republican takeover of Congress.

Figure 9
Number of Rules Published in the *Federal Register*, 1993–2002



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

**Those “top five,”
with 2,077 rules
among them,
account for 50
percent of all
rules in the
Agenda pipeline.**

sector primarily, but many also affect lower-level governments and the federal government itself.

The October 2002 *Agenda* finds federal agencies, departments, and commissions at work on 4,187 regulations from the prerule to the just-completed stages.²² As Figure 10 shows, the number of rules in the *Agenda* peaked at 5,119 in October 1994 and mostly declined since. Nonetheless, the count has topped 4,500 for the past five years. Between 2001 and 2002 the number of rules in the *Agenda* fell 7 percent, from 4,509 to 4,187. (For a history of numbers of rules in the *Agenda* since 1983, see Appendix: Historical Tables, Part C.)²³

Table 3 breaks the 4,187 October 2002 rules down by issuing department, agency, or commission. It is apparent that a handful of agencies account for a large number of the rules produced, and such is the case each year. The five agencies and departments listed in Table 4 (the Departments of Transportation, the Treasury, Agriculture, and the Interior, and the Environmental Protection Agency) were the biggest rulemakers. Those “top five,” with 2,077 rules among them, account for 50 percent of all rules in

the *Agenda* pipeline. (For numbers of rules by department and agency from previous editions of the *Unified Agenda*, see Appendix: Historical Tables, Part D.)

As examples of recent initiatives, agencies noted the following rules (among many others) as priorities in recent *Unified Agendas*.

Department of Agriculture

- Egg And Egg Products Inspection Regulations
- Performance standards for ready-to-eat meat and poultry products
- Environmental quality incentives program

Department of Health and Human Services

- Current good manufacturing practice in manufacturing, packing, or holding dietary ingredients and dietary supplements
- Registration of food and animal feed facilities
- Food labeling: trans fatty acids in nutrition labeling, nutrient content claims, and health claims
- Development of hazard analysis critical control points and label warning state-

Table 3
Unified Agenda entries by Department and Agency, October 2002

Agency	Total Rules	Agency	Total Rules
Dept. of Agriculture	314	Office of Management & Budget	4
Dept. of Commerce	270	Office of Personnel Management	72
Dept. of Defense	87	Peace Corps	9
Dept. of Education	14	Pension Benefit Guaranty Corporation	6
Dept. of Energy	53	Railroad Retirement Board	13
Dept. of Health & Human Services	219	Selective Service System	1
Dept. of Housing & Urban Development	100	Small Business Administration	40
Dept. of the Interior	298	Social Security Administration	6
Dept. of Justice	249	Tennessee Valley Authority	2
Dept. of Labor	102	Federal Acquisition Regulation	43
Dept. of State	41	Commodity Futures Trading Commission	19
Dept. of Transportation	543	Consumer Product Safety Commission	20
Dept. of the Treasury	513	Farm Credit Administration	14
Dept. of Veterans Affairs	104	Farm Credit System Insurance Corporation	1
Advisory Council on Historic Preservation	1	Federal Communications Commission	141
Agency for International Development	7	Federal Energy Regulatory Commission	19
Architectural and Transportation Barriers Compliance Board	5	Federal Housing Finance Board	9
Commission on Civil Rights	1	Federal Maritime Commission	8
Corporation for National & Community Service	16	Federal Reserve System	24
Environmental Protection Agency	409	National Credit Union Administration	20
Federal Emergency Management Agency	24	Nuclear Regulatory Commission	39
General Services Administration	40	Securities and Exchange Commission	73
National Aeronautics & Space Administration	13	Federal Trade Commission	10
National Archives & Records Administration	20	Federal Deposit Insurance Corporation	17
Institute of Museum and Library Services	5	National Indian Gaming Commission	16
National Endowment for the Arts	5	Surface Transportation Board	5
Equal Employment Opportunity Commission	4	Federal Mediation and Conciliation Service	4
National Endowment for the Humanities	9	Udall Inst. for Environmental Conflict Res.	1
National Science Foundation	2	Court Sevices/Offender Supervision, D.C.	7
Office of Federal Housing Enterprise Oversight	7	Presidio Trust	2
Office of Government Ethics	10	Total	4,187

Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, December 9, 2002.

ments for fruit and vegetable juices

Department of Labor

- Confined spaces in construction: preventing suffocation/explosions in confined spaces
- Indoor air quality in the workplace
- Injury and illness prevention

Department of Energy

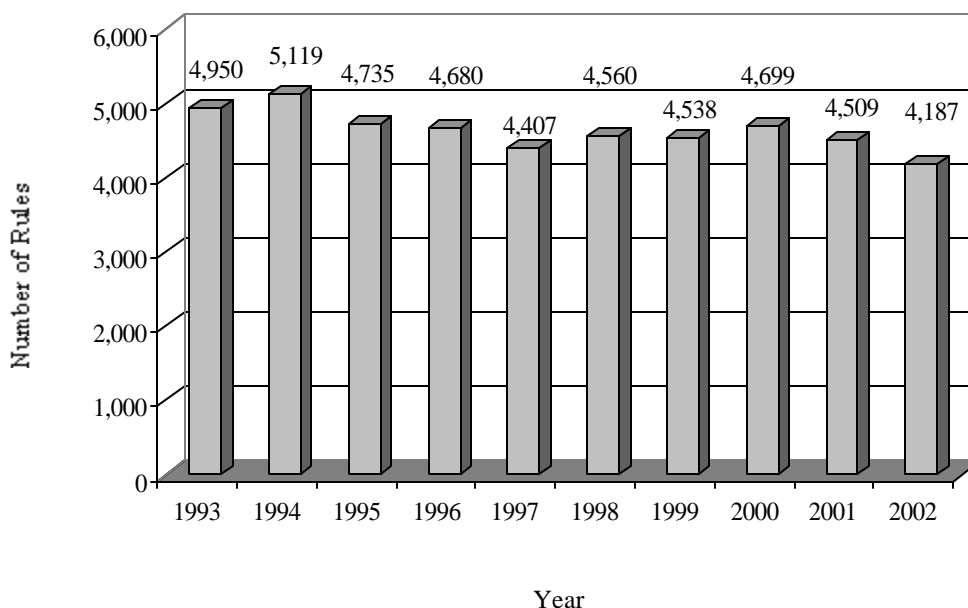
- Energy efficiency standards for: residential furnaces, boilers, and mobile home furnaces; electric distribution transformers; certain commercial cen-

tral air conditioning units and heat pumps; clothes dryers and dishwashers; pool heaters and direct heating equipment; fluorescent and incandescent lamps; central air conditioners and heat pumps

Department of Transportation

- Domestic passenger manifest information
- Screening of checked baggage on flights within the United States
- Minimum training requirements for operators and training instructors of multiple trailer combination trucks

Figure 10
Total Agency Rules in the *Agenda* Pipeline, 1993–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

- Light truck fuel economy standard
- Registration and training for operators of propane-tank-filling equipment
- Improved tire safety and tire pressure monitoring systems
- Automotive regulations for car lighting, door retention, brake hoses, daytime running-light glare, side impact protection
- Hours of service, rest and sleep for truck drivers

Environmental Protection Agency

- National emission standards for hazardous air pollutants from plywood and composite wood products
- Emissions from non-road spark-ignition engines and standards for recreational spark-ignition engines
- Review of the national ambient air quality standards for particulate matter
- Control of emissions from spark ignition marine vessels and highway motorcycles, and non-road diesel engines

- Groundwater and pesticide management
- Regulation of acrylamide in grout

Consumer Product Safety Commission

- Flammability standard for upholstered furniture
- Rule to ban certain backyard play sets
- Product registration cards for products intended for children

Federal Communications Commission

- Signal carriage requirements for satellite broadcasters

Department of Housing and Urban Development

- Revision of manufactured home construction and safety standards to revise location of smoke alarms

“Economically Significant” Off-Budget Rules in the *Agenda* Will Cost Billions of Dollars

The *Agenda* classifies a subset of its 4,187

Table 4
The Top Rule-Producing Agencies

Agency	Number of Regulations
1. Department of Transportation	543
2. Department of Treasury	513
3. Environmental Protection Agency	409
4. Department of Agriculture	314
5. Department of the Interior	298
Top-Five Total	2,077

Source: Compiled from National Archives, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, December 9, 2002.

rules as "economically significant." That term means that the rules are anticipated by agencies to have yearly economic impacts of at least \$100 million. Those impacts generally mean increased costs, although occasionally an economically significant rule is intended to reduce costs in the economy. As Table 5 shows, 135 new economically significant rules are under consideration by 19 separate departments and agencies at the prerule, proposed rule, final rule, long-term, and recently completed stages (That number is a decrease of 9 percent from the 149 high-cost rules last year). These high-cost rules are scattered among the 4,187 rules in the *Agenda*. Since each will cost at least \$100 million annually, those rules can be expected to impose, at minimum, total annual costs of \$13.5 billion (135 rules multiplied by \$100 million). (For a full list of the 135 economically significant rules, see Appendix: Historical Tables, Part E.)

A breakdown of the \$13.5 billion in regulatory costs is never presented directly for each rule in the *Agenda*. The costs represent a floor and are found 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 though the \$13.5 billion in anticipated costs represents a lower boundary for regulatory costs, it is not 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.

Figure 11 shows economically significant rules from the October *Agendas* for the 1998–2002 period. The 135 major rules in 2002 represent a 15 percent increase since 1998.

It should be noted that agencies are not required to limit their activity to what they publish 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 this publication."²⁴

Finally, the fact that policymakers and analysts pay most attention to economically significant rules should not lull them into ignoring the remaining bulk of rules in the yearly pipeline. Consider: in 2002, 4,052 federal rules were not considered "economically significant" by the government (4,187 total rules minus the 135 economically significant ones). But that doesn't mean many of those rules aren't economically significant in the ordinary sense of the term. Any of those rules may cost up to \$99 million and still evade the "economically significant" label.

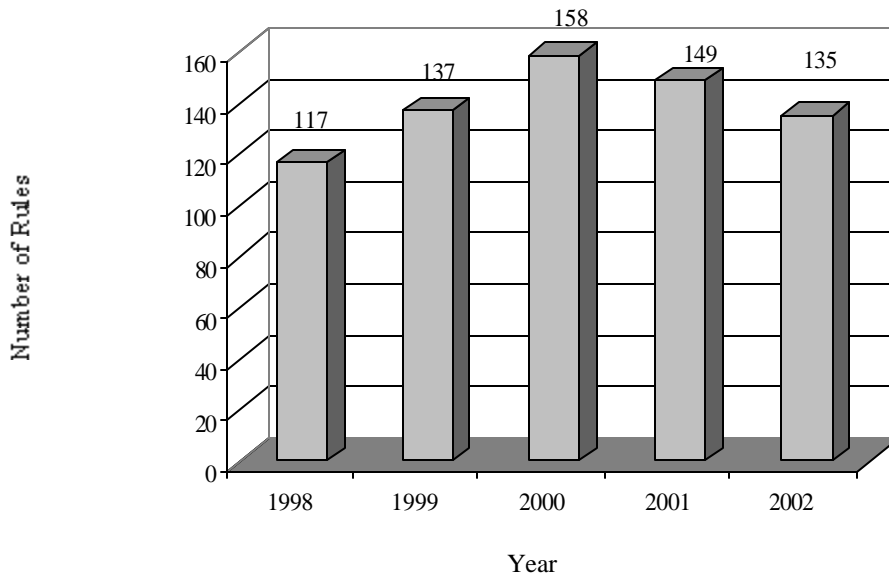
One hundred thirty-five new economically significant rules are under consideration by 19 separate departments and agencies.

Table 5
135 Rules in the Pipeline Expected to Cost More Than \$100 Million Annually, 2002

	Prerule	Proposed	Final	Long-Term	Completed	Total
Dept. of Agriculture		10	4	4	4	22
Department of Commerce		2	3			5
Department of Defense			1		1	2
Dept. of Energy	3			4	1	8
Dept. of Health & Human Services		10	5		5	20
Dept. of Housing and Urban Development		1	2			3
Dept. of Justice		4				4
Dept. of the Interior		1			1	2
Dept. of Labor	3	3	1	1	1	9
Dept. of Transportation		2	7	2	2	13
Dept. of Veterans Affairs		1				1
ATBCB		1				1
Environmental Protection Agency		12	8	5		25
Federal Emergency Management Admin.			1			1
Office of Personnel Management			1			1
Consumer Product Safety Commission	1	1				2
Federal Communications Commission				13		13
Social Security Administration			2			2
Nuclear Regulatory Commission					1	1
Total	7	46	37	29	16	135

Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, December 9, 2002.

Figure 11
“Economically Significant” Rules in the Agenda Pipeline, 1998–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Planned Federal Regulations Expected to Impact Small Business

The Regulatory Flexibility Act requires that federal agencies assess the impacts of their rules on small businesses. The *Agenda* notes that “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.”²⁵

As Figure 12 shows, 892 rules are anticipated to have significant economic impact on small businesses, according to the 2002 *Unified Agenda*. That is down very significantly, 10 percent from 996 such rules in 2001. From 1998 to 2002, the number of rules affecting small businesses dipped 5 percent, from 937 to 892.

Table 6 breaks out the October 2002 *Agenda’s* 892 rules affecting small business by department, agency, and commission.

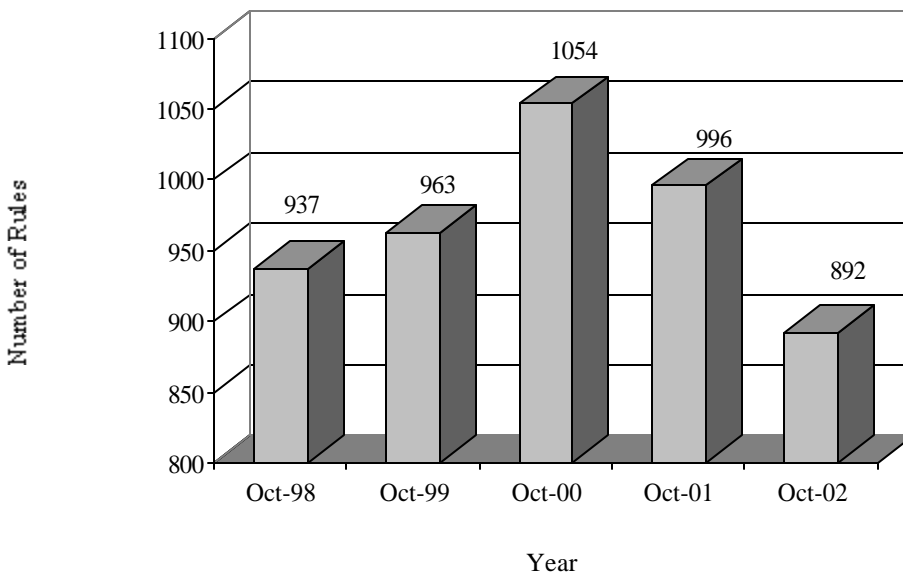
The Department of Transportation and

the Environmental Protection Agency account, respectively, for 216 and 167 of the 892 rules that affect small business—far outstripping other agencies’ rules in small business impacts. The runners up are the Federal Communications Commission with 109 rules affecting small business, the Department of Health and Human Services with 92, and the Department of Commerce with 77. Those five agencies together account for 661, or 74 percent, of the total number of rules that will affect small businesses. (For the numbers of rules affecting small business broken down by department and agency for October *Agendas* since 1994, see Appendix: Historical Tables, Part F.)

The proportion of total rules affecting small business has increased over the past few years, despite the passage of amendments to the Regulatory Flexibility Act in 1996. As noted in Table 6, the 892 small business rules in 2002 make up 21.3 percent of the total of 4,187 rules. By contrast, in 1996, only 16.1 percent of rules affected small businesses.

Eight hundred ninety-two rules are anticipated to have significant economic impact on small businesses.

Figure 12
Rules That Impact Small Businesses, 1998–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Table 6
Unified Agenda Entries Impacting Small Business by Department, Agency, and Commission, October 2002

	Total Rules	Number Impacting Small Business		Total	% Impacting Small Business
		RFA Required	RFA Not Required		
Dept. of Agriculture	314	22	17	39	12.4%
Dept. of Commerce	270	50	27	77	28.5%
Dept. of Defense	87	4	2	6	6.9%
Dept. of Education	14	1		1	7.1%
Dept. of Energy	53			0	0.0%
Dept. of Health & Human Services	219	48	44	92	42.0%
Dept. of Housing & Urban Development	100	1	5	6	6.0%
Dept. of the Interior	288	11	6	17	5.7%
Dept. of Justice	249	7	6	13	5.2%
Dept. of Labor	102	15	7	22	21.6%
Dept. of State	41		6	6	14.6%
Dept. of Transportation	543	20	196	216	39.8%
Dept. of the Treasury	513	3	23	26	5.1%
Dept. of Veterans Affairs	104		1	1	1.0%
Advisory Council on Historic Preservation	1				
Agency for International Development	7		2	2	28.6%
Architectural and Transportation Barriers Compliance Board	5	1		1	20.0%
Commission on Civil Rights	1			0	0.0%
Commission for National & Community Service	16			0	0.0%
Environmental Protection Agency	409	14	153	167	40.8%
Federal Emergency Management Agency	24	1		1	4.2%
General Services Administration	40	1	3	4	10.0%
National Aeronautics & Space Administration	13			0	0.0%
National Archives & Records Administration	20			0	0.0%
Institute of Museum and Library Services	5			0	0.0%
National Endowment for the Arts	5		2	2	40.0%
Equal Employment Opportunity Commission	4			0	0.0%
National Endowment for the Humanities	9			0	0.0%
National Science Foundation	2			0	0.0%
Office of Federal Housing Enterprise Oversight	7			0	0.0%
Office of Government Ethics	10			0	0.0%
Office of Management & Budget	4			0	0.0%
Office of Personnel Management	72			0	0.0%
Peace Corps	9			0	0.0%
Pension Benefit Guaranty Corporation	6			0	0.0%
Railroad Retirement Board	13			0	0.0%
Selective Service System	1			0	0.0%
Small Business Administration	40	14	7	21	52.5%
Social Security Administration	63		1	1	1.6%
Tennessee Valley Authority	2			0	0.0%
Federal Acquisition Regulation	43	6		6	14.0%
Commodity Futures Trading Commission	19			0	0.0%
Consumer Product Safety Commission	20			0	0.0%
Farm Credit Administration	14			0	0.0%
Farm Credit System Insurance Corporation	1			0	0.0%
Federal Communications Commission	141	104	5	109	77.3%

continued on next page

Table 6 *continued*

	Total Rules	Number Impacting Small Business		% Impacting Small Business
		RFA Required	RFA Not Required	
Federal Energy Regulatory Commission	19			0.0%
Federal Housing Finance Board	9			0.0%
Federal Maritime Commission	8		7	87.5%
Federal Reserve System	24	7		29.2%
National Credit Union Administration	20			0.0%
Nuclear Regulatory Commission	39	5		12.8%
Securities and Exchange Commission	73	27	1	38.4%
Federal Trade Commission	10		9	90.0%
Federal Deposit Insurance Corporation	17			0.0%
National Indian Gaming Commission	16			0.0%
Surface Transportation Board	5			0.0%
Federal Mediation and Conciliation Service	4			0.0%
Udall Inst. for Environmental Conflict Res.	1			0.0%
Court Services/Offender Supervision, D.C.	7			0.0%
Presidio Trust	2			0.0%
Total	4,187	362	530	21.3%

Note : RFA - Regulatory Flexibility Analysis

Source : Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, December 9, 2002.

Note : RFA = regulatory flexibility analysis.

State and local officials' realization that their own priorities were being overridden by federal mandates generated additional interest from them in regulatory reform.

Federal Regulations Impacting State and Local Governments

Ten Thousand Commandments primarily tracks regulations imposed on the private sector. However, state and local officials' realization during the 1990s that their own priorities were being overridden by federal mandates generated additional interest from them in regulatory reform. As a result Congress passed the Unfunded Mandates Act in 1995 to provide a point of order against such mandates as a means of getting lawmakers to pay closer attention to the impacts of legislative activity on the states.

As Figure 13 shows, agencies report that 363 of the 4,187 rules in the October 2002 Agenda will have effects on local governments, about 3 percent fewer than 2001's 373.²⁶ Over the eight years since the passage of the Unfunded Mandates Act, the number of rules affecting local governments has fallen from

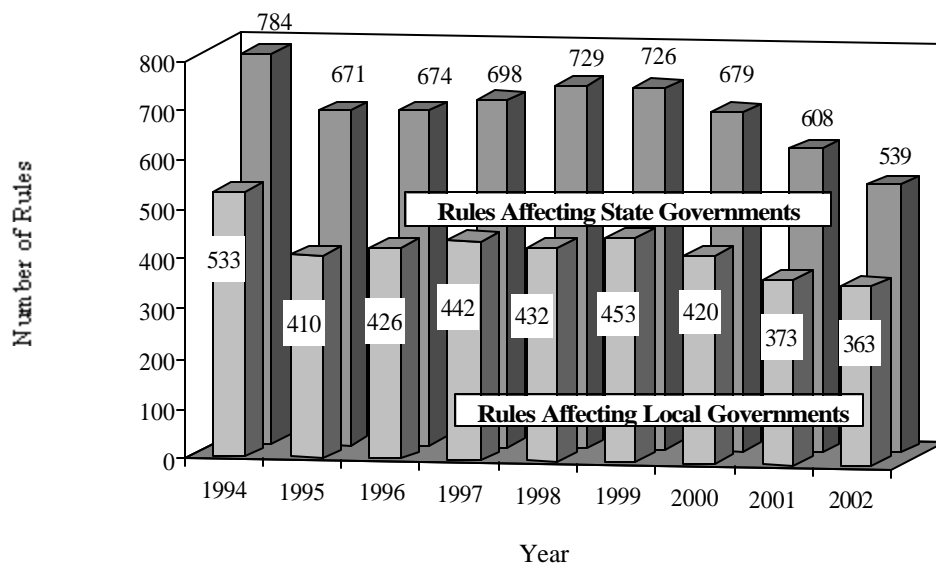
533 to 363, a drop of 32 percent.

Figure 13 also shows that the total number of regulatory actions affecting state-level governments dropped from 608 to 539 over the past year. Since passage of the unfunded mandates legislation, the count has dropped from 784 to 539, a decline of 31 percent. (For breakdowns of the numbers of rules affecting state and local governments by department and agency over the past several years' October Agendas, see Appendix: Historical Tables, Part G.)

General Accounting Office Database on Regulations

The various reports on regulatory measures serve different purposes. The *Federal Register* shows the aggregate number of proposed and final rules. The *Agenda* reveals the number of rules at various stages in the regulatory pipeline. Under the 1996 Congressional Review Act, agencies are required to

Figure 13
Rules That Affect State and Local Governments, 1994–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Note: Many of these rules affect both local and state governments, and most of these rules affect the private sector as well.

Table 7
GAO Reports on Major Rules, 1998–2002

	1998	1999	2000	2001	2002
Environmental Protection Agency	9	5	5	4	1
Department of the Interior	5	4	10	8	7
Federal Communications Commission	17	5	7	2	4
Health and Human Services	18	7	13	19	12
Department of Energy	0	0	3	3	1
Securities and Exchange Commission	5	5	6	2	2
Department of Agriculture	4	5	12	9	7
Nuclear Regulatory Commission	2	1	2	1	1
Department of Transportation	1	4	3	3	6
Department of Justice	1	0	0	2	5
Federal Reserve	0	0	1	0	0
Social Security Administration	0	3	1	1	0
Department of Housing and Urban Dev.	0	1	2	1	0
Department of Labor	2	0	5	3	1
Department of Commerce	1	2	0	1	0
Pension Benefit Guaranty Corp.	1	0	0	0	0
Department of the Treasury	2	0	0	0	0
Department of Defense	1	1	0	2	2
Department of Education	0	1	0	0	0
National Credit Union Administration	0	1	0	0	0
Emergency Steel Guarantee Loan Board	0	1	0	0	0
Small Business Administration	1	0	1	1	0
Federal Trade Commission	0	0	1	0	0
Achitectural Barriers Compliance Board	0	0	0	1	0
Federal Emergency Management Agency	0	0	0	3	1
Federal Acquisition Regulation	0	0	0	1	0
Veterans Administration	0	0	0	3	1
Office of Management and Budget	0	0	0	1	0
Office of Personnel Management	0	0	1	0	0
Various agencies; HIPAA* Implementation	0	0	0	1	0
Total	70	46	73	72	51

Source: Compiled from GAO data.

Note: HIPAA = Health Insurance Portability and Accountability Act.

submit reports to Congress on their “major” rules (typically those costing \$100 million or more). Thanks to those reports, one can now rather easily see which of the thousands of final rules that agencies issue each year are major and which agencies are producing the rules.

The General Accounting Office reports that the CRA gives Congress a chance to review a rule for 60 legislative days, and, if desired, to pass a resolution of disapproval

rejecting the rule. But despite the issuance of thousands of rules since the CRA’s passage—among them many dozens of major ones—only one has been rejected, the Labor Department’s rule on workplace repetitive-motion injuries in early 2001.

As can be seen in Table 7, which is based on the GAO database, the number of final major rules issued by agencies dropped dramatically over the past year; 51 final rules were issued in 2002 compared with 72 in

Of the 4,187 rules in the *Unified Agenda* pipeline in 2002, 409, or 9.8 percent, were in the works at the EPA.

2001. The Departments of Health and Human Services, Agriculture, and the Interior issued the most major rules in 2002.

Regulation and the EPA

This report has taken a broad look at the extent of government regulation. It is also useful to look at a single agency in isolation to get a feel for regulatory trends. By several measures, the EPA is a prominent regulator. For example, it spends more than any other agency to enforce regulations. The EPA alone, which is expected to spend \$4.4 billion to enforce regulation during FY 204'03, accounts for 18 percent of the \$24.6 billion (in current dollars) expected to be spent by all the regulatory agencies.²⁷ But total numbers of regulations from the EPA have fallen lately.

Total EPA Rules and Their Impact on Small Business

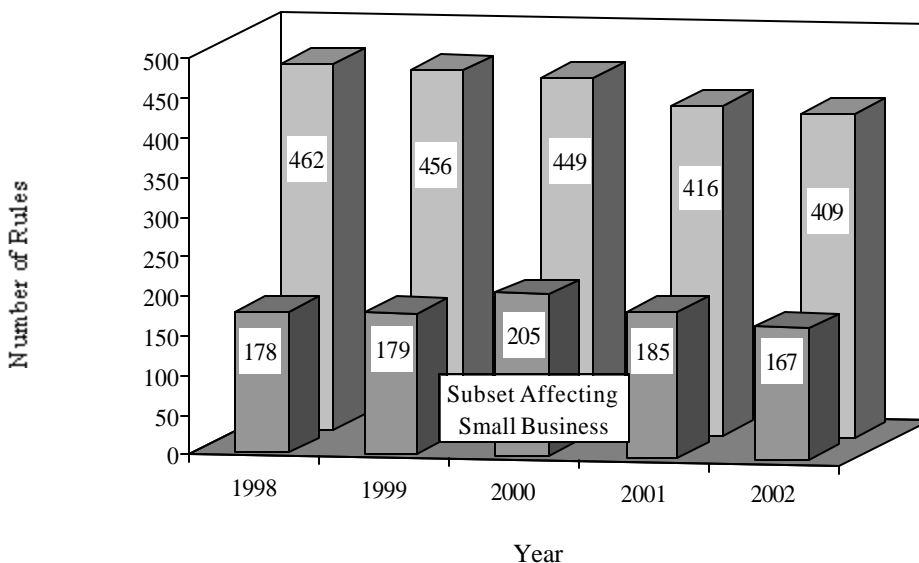
Of the 4,187 rules in the *Unified Agenda* pipeline in 2002, 409, or 9.8 percent, were in

the works at the EPA (refer back to Table 3). Nonetheless, the total number of rules from EPA is lower than it was five years ago when the count was 462 (Figure 14). Rules have been level over the past year, dropping from 416 to 409. The agency's total number of economically significant rules in the Agenda remained steady at 25 (Table 5). The number of EPA major rules finalized, as compiled from GAO data and shown in Table 7, fell from four to only one.

The number of EPA rules has fallen, but that 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 extremely costly.²⁸ Fewer rules, or at least better-scrutinized rules, are a welcome development but do not necessarily mean lower costs.

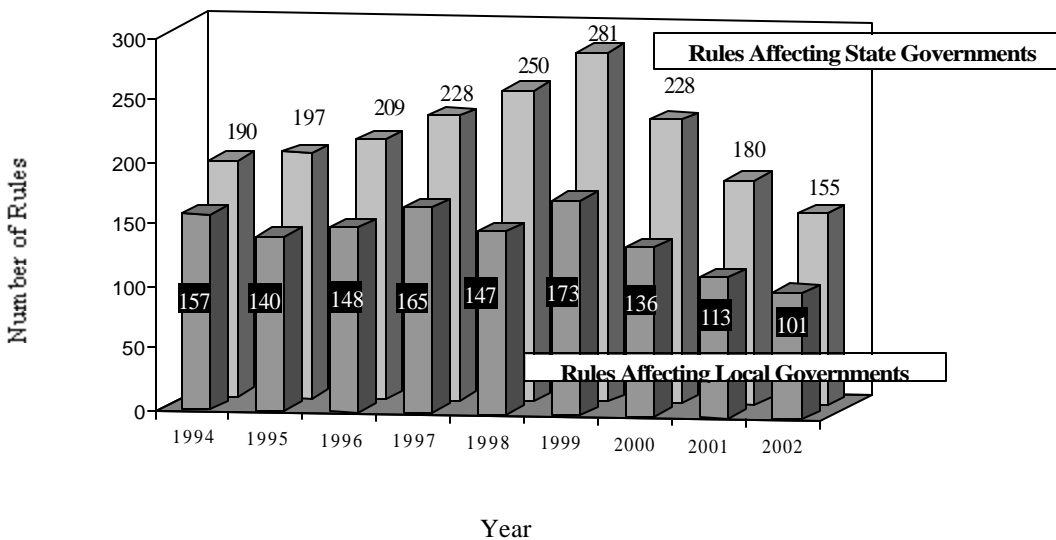
Also shown in Figure 14 is the subset of the EPA's rules that have some impact on small business. Since 1998 that category of rules has been largely flat, moving from 178 to 167. Those rules had hit 205 in President Clinton's final year.

Figure 14
Number of EPA Rules, 1998–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Figure 15
EPA Rules Affecting State and Local Governments, 1994–2002



Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Impacts of EPA Rules on State and Local Governments

Earlier, Figure 13 showed that, overall, there are fewer federal agency rules affecting state and local governments than there were in 1994 (before the Unfunded Mandates Act). Figure 15 shows that the number of EPA rules affecting state and local governments, in contrast with overall trends, did rise steadily after 1995. But after 1999 the number of those EPA rules began dropping markedly. For example, under President Bush, EPA rules affecting state governments have fallen 32 percent so far, from 228 to 155.

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

Ending Regulation without Representation

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 indicated. Although it is true that some regulations may produce benefits that exceed their 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, which renders OMB’s estimates of overall net benefits from the regulatory state highly questionable. That is why, to the extent possible, regulatory data should be officially summarized and publicly disclosed. Simultaneously, elected representatives should assume responsibility and put an end to “regulation without representation” altogether. Halting excessive delegation is the best way to rein in off-budget regulatory costs.

Although 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 useful incremental step would be to require the publication of a summary of already available, but scattered, data (resembling that in *Ten Thousand Commandments*). That simple step alone would help to transform today’s regulatory culture from one

Halting excessive delegation is the best way to rein in off-budget regulatory costs.

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.

of nondisclosure and bureaucratic brushoff to one of maximum regulatory disclosure.

Broadly, today's regulations fall into two classes: those that are "economically significant" (cost more than \$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 to reflect increasing levels of costs. Agencies could be required to break up their economically significant rules into categories that represent increasing costs. Table 8 presents one alternative that assigns economically significant rules to one of five categories.

Agencies could categorize their rules on the basis of cost information provided in the regulatory impact analyses accompanying many economically significant rules, or on the basis of separate internal or external estimates. Although modest, this step toward greater disclosure could be highly important.

Other steps can be taken easily. 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 comb through the *Agenda's* 1,000-plus pages of small, multicolumn print. Useful regulatory information is available

but often too tedious to accumulate.

The *Agenda* could be made more user-friendly. One modest change might 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 *Agenda* itself, or the *Economic Report of the President*.

One way to set up a regulatory report card is shown in the box to follow. Information could be added to the report as deemed necessary—for instance, success or failure of any special initiative, such as any reinventing government, or regulatory reform effort. Providing five-year historical data would tremendously enhance the usefulness of the *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.

Detailed cost/benefit data are not necessary to begin producing a regulatory report card. A clear presentation of trends in those data would prove useful 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. Most of the time we simply don't know whether regulatory benefits exceed costs. The real culprits are not the agencies: Congress, our elected lawmakers, shirks the duty to make the tough calls, dele-

Table 8
A Possible Breakdown of “Economically Significant” Rules

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

Regulatory Report Card: Recommended Official Summary Data by Program, Agency, and Grand Total, with Five-Year Historical Tables

- “Economically significant” rules by category (see Table 8) and minor rules by department, agency, and commission
- Numbers/percentages of rules impacting small business and lower-level governments
- Numbers/percentages of rules featuring numerical cost estimates
- Tallies of existing cost estimates, with subtotals by agencies, and grand total
- Numbers/percentages of rules lacking cost estimates
- Short explanation of lack of cost estimates, where applicable
- 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 only internal agency procedures
- Rollover: number of rules new to the *Unified Agenda*; number carried over from previous years
- Numbers/percentages of rules required by statute vs. discretionary rules
- Numbers/percentages of rules facing statutory or judicial deadlines
- Rules for which weighing costs and benefits is statutorily prohibited

gating too much lawmaking power to agencies,²⁹ and then fails to require that they deliver greater benefits than costs. 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 agency 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. To put things in perspective: Congress passed and the president signed 269 bills into law in 2002.³⁰ But, as noted, regulatory agencies issued 4,167 rules. The unelected are doing the bulk of the lawmaking.

Since agencies are inherently unaccountable to voters, an annual regulatory report card is a start but not a complete answer. Nor are regulatory reforms that rely on agencies’ policing themselves capable of harnessing the regulatory state. 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 to merely require agencies to perform cost/benefit analyses but 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 this era of vanished budget surpluses. If Congress’s alternatives are to spend or to issue new regulations, concern about deficits invites Congress to regulate instead of increase government spending

Congressional accountability for regulatory costs assumes new importance in this era of vanished budget surpluses.

By regulating instead of spending government can expand almost indefinitely without explicitly taxing anyone a single penny.

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 a job training program would require approval of a new appropriation for the Department of Labor, and that appropriation would appear in the federal budget and reduce the government surplus. Or, 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 for every dollar of new regulatory costs. To allay the concern that Congress would become bogged down approving agency rules, agency regulations could be voted on in bundles. In addition, congressional approval of new regulation could also be given by voice vote, signifying unanimity, rather than by tabulated roll call vote. The important thing is that Congress be held accountable.

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 in place a system more accountable to voters.

Appendix: Historical Tables

Part A: Federal Register Page History, 1936–2002

Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count
1936	2,620	not available (n/a)	2,620
1937	3,450	n/a	3,450
1938	3,194	n/a	3,194
1939	5,007	n/a	5,007
1940	5,307	n/a	5,307
1941	6,877	n/a	6,877
1942	11,134	n/a	11,134
1943	17,553	n/a	17,553
1944	15,194	n/a	15,194
1945	15,508	n/a	15,508
1946	14,736	n/a	14,736
1947	8,902	n/a	8,902
1948	9,608	n/a	9,608
1949	7,952	n/a	7,952
1950	9,562	n/a	9,562
1951	13,175	n/a	13,175
1952	11,896	n/a	11,896
1953	8,912	n/a	8,912
1954	9,910	n/a	9,910
1955	10,196	n/a	10,196
1956	10,528	n/a	10,528
1957	11,156	n/a	11,156
1958	10,579	n/a	10,579
1959	11,116	n/a	11,116
1960	14,479	n/a	14,479
1961	12,792	n/a	12,792
1962	13,226	n/a	13,226
1963	14,842	n/a	14,842
1964	19,304	n/a	19,304
1965	17,206	n/a	17,206
1966	16,850	n/a	16,850
1967	21,088	n/a	21,088
1968	20,072	n/a	20,072
1969	20,466	n/a	20,466
1970	20,036	n/a	20,036
1971	25,447	n/a	25,447
1972	28,924	n/a	28,924
1973	35,592	n/a	35,592
1974	45,422	n/a	45,422
1975	60,221	n/a	60,221
1976	57,072	6,567	50,505
1977	65,603	7,816	57,787
1978	61,261	5,565	55,696
1979	77,498	6,307	71,191
1980	87,012	13,754	73,258
1981	63,554	5,818	57,736
1982	58,494	5,390	53,104
1983	57,704	4,686	53,018
1984	50,998	2,355	48,643
1985	53,480	2,978	50,502
1986	47,418	2,606	44,812
1987	49,654	2,621	47,033
1988	53,376	2,760	50,616
1989	53,842	3,341	50,501
1990	53,620	3,825	49,795
1991	67,716	9,743	57,973
1992	62,928	5,925	57,003
1993	69,688	8,522	61,166
1994	68,108	3,194	64,914
1995	67,518	4,873	62,645
1996	69,368	4,777	64,591
1997	68,530	3,981	64,549
1998	72,356	3,785	68,571
1999	73,880	2,719	71,161
2000	83,294	9,036	74,258
2001	74,482	4,891	69,591
2002	80,332	4,726	75,606

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

Notes: Publication of proposed rules was not required before the Administrative Procedures Act of 1946. Preambles to rules published only to a limited extent before the 1970s.

Part B: Number of Documents Published in *Federal Register*, 1976–2002

Year	Final Rules	Proposed Rules	Other	Total
76	7,401	3,875	27,223	38,499
77	7,031	4,188	28,381	39,600
78	7,001	4,550	28,705	40,256
79	7,611	5,824	29,211	42,646
80	7,745	5,347	33,670	46,762
81	6,481	3,862	30,090	40,433
82	6,288	3,729	28,621	38,638
83	6,049	3,907	27,580	37,536
84	5,154	3,350	26,047	34,551
85	4,843	3,381	22,833	31,057
86	4,589	3,185	21,546	29,320
87	4,581	3,423	22,052	30,056
88	4,697	3,240	22,047	29,984
89	4,714	3,194	22,218	30,126
90	4,334	3,041	22,999	30,374
91	4,416	3,099	23,427	30,942
92	4,155	3,170	24,063	31,388
93	4,369	3,207	24,017	31,593
94	4,867	3,372	23,669	31,908
95	4,713	3,339	23,133	31,185
96	4,937	3,208	24,485	32,630
97	4,584	2,881	26,260	33,725
98	4,899	3,042	26,313	34,254
99	4,684	3,281	26,074	34,039
2000	4,313	2,636	24,976	31,925
2001	4,132	2,512	25,392	32,036
2002	4,167	2,635	26,250	33,052

Source: National Archives and Records Administration, Office of the *Federal Register*.
 Note: “Other” documents are presidential documents, agency notices, and corrections.

Part C: Unified Agenda Rules History, 1983–2002

		<u>Total Number of Rules under Consideration</u>						
1980s		1990s			2000s			
1983	April	2,863	1990	April	4,332	2000	October	4,699
	October	4,032		October	4,470	2001	October	4,509
1984	April	4,114	1991	April	4,675	2002	October	4,187
	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			

Source: Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Part D: Agenda Rules History by Department and Agency, 1997–2002

	Oct. 01	Oct. 00	Oct. 99	Oct. 98	Oct. 97
Dept. of Agriculture	312	327	345	384	398
Dept. of Commerce	342	390	366	344	283
Dept. of Defense	93	117	121	142	142
Dept. of Education	8	21	32	20	29
Dept. of Energy	61	67	64	63	75
Dept. of Health & Human Services	277	308	300	351	299
Dept. of Housing & Urban Development	89	113	128	102	98
Dept. of the Interior	423	418	309	337	321
Dept. of Justice	229	202	201	186	185
Dept. of Labor	141	156	151	149	132
Dept. of State	32	21	27	22	24
Dept. of Transportation	511	536	539	518	510
Dept. of the Treasury	458	450	400	438	458
Dept. of Veterans Affairs	164	141	130	118	108
Advisory Council on Historic Preservation	0	1	1	1	1
Agency for International Development	6	6	5	7	8
Architectural and Transportation Barriers Compliance Board	5	7	8	9	9
Commission on Civil Rights	1	1	1	1	1
Corporation for National & Community Service	9	6	4	6	2
Environmental Protection Agency	416	449	456	462	430
Federal Emergency Management Agency	30	26	33	25	22
General Services Administration	35	40	51	49	52
National Aeronautics & Space Administration	17	11	7	11	17
National Archives & Records Administration	19	21	21	19	17
Institute of Museum Services	5	4	1	1	2
National Endowment for the Arts	5	5	5	5	7
Equal Employment Opportunity Commission	3	6	9	10	10
National Endowment for the Humanities	8	7	6	6	7
National Science Foundation	3	5	4	5	7
Office of Federal Housing Enterprise Oversight	9	5	5	4	4
Office of Government Ethics	11	11	12	12	13
Office of Management & Budget	5	5	9	11	16
Office of Personnel Management	91	110	112	101	92
Panama Canal Commission	0	0	4	5	6
Peace Corps	9	8	5	5	5
Pension Benefit Guaranty Corporation	11	10	12	12	10
Railroad Retirement Board	13	19	16	17	20
Selective Service System	1	1	1	1	1
Small Business Administration	37	41	35	25	15
Social Security Administration	85	82	67	70	72
Tennessee Valley Authority	3	3	1	1	0
U.S. Information Agency	0	0	0	1	4
Federal Acquisition Regulation	48	56	49	42	49
Commodity Futures Trading Commission	30	21	19	12	9
Consumer Product Safety Commission	21	20	17	15	14
Farm Credit Administration	17	17	19	15	17
Farm Credit System Insurance Corporation	1	3	3	3	4
Federal Communications Commission	145	137	128	121	98
Federal Energy Regulatory Commission	8	18	20	12	10
Federal Housing Finance Board	12	12	18	17	17
Federal Maritime Commission	7	9	9	6	3
Federal Reserve System	32	33	22	30	36
Federal Trade Commission	13	14	16	16	19
National Credit Union Administration	22	16	26	14	14
Federal Deposit Insurance Corporation	22	26	25	26	31
National Indian Gaming Commission	15	14	14	17	16
National Labor Relations Board	0	0	0	0	3
Nuclear Regulatory Commission	42	55	57	63	62
Office of Special Counsel	0	3	2	1	
Overseas Private Investment Corporation	0	0	0	2	0
Securities and Exchange Commission	80	77	80	83	79
Surface Transportation Board	4	3	3	8	13
Federal Mediation and Conciliation Service	3	2	1	1	1
Court Services/Offender Supervision, D.C.	5	0	0	0	0
Presidio Trust	2	3	3	0	0
Udall Institute for Environmental Conflict Res.	3	3	3	0	0
Total	4,509	4,699	4,538	4,560	4,407

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Part E: Listing of 135 “Economically Significant” Rules, October 2002*

From the Regulatory Plan (49 Rules)

Department of Agriculture

- (1) 7. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): REVISIONS IN THE WIC FOOD PACKAGES
- (2) 8. FOOD STAMP PROGRAM: SIMPLIFICATION AND STATE FLEXIBILITY
- (3) 9. FSP: HIGH PERFORMANCE BONUSES
- (4) 10. FSP: ELIGIBILITY AND CERTIFICATION PROVISIONS OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002
- (5) 12. FSP: EMPLOYMENT AND TRAINING PROGRAM PROVISIONS OF THE FARM SECURITY AND RURAL INVESTMENT ACT OF 2002
- (6) 15. EGG AND EGG PRODUCTS INSPECTION REGULATIONS
- (7) 17. EMERGENCY REGULATIONS TO PREVENT MEAT FOOD AND MEAT PRODUCTS THAT MAY CONTAIN THE BSE AGENT FROM ENTERING COMMERCE
- (8) 18. PERFORMANCE STANDARDS FOR READY-TO-EAT MEAT AND POULTRY PRODUCTS

Department of Energy

- (9) 25. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES
- (10) 26. ENERGY EFFICIENCY STANDARDS FOR ELECTRIC DISTRIBUTION TRANSFORMERS
- (11) 27. ENERGY EFFICIENCY STANDARDS FOR COMMERCIAL CENTRAL AIR CONDITIONING UNITS AND HEAT PUMPS RATED 65-240 KBTUS/HR

Department of Health and Human Services

- (12) 32. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING DIETARY INGREDIENTS AND DIETARY SUPPLEMENTS
- (13) 33. CONTROL OF SALMONELLA ENTERITIDIS IN SHELL EGGS DURING PRODUCTION AND RETAIL
- (14) 35. BAR CODE LABEL REQUIREMENTS FOR HUMAN DRUG PRODUCTS
- (15) 37. ESTABLISHMENT AND MAINTENANCE OF RECORDS TO IDENTIFY IMMEDIATE PREVIOUS SOURCE AND IMMEDIATE SUBSEQUENT RECIPIENT OF FOODS
- (16) 38. REGISTRATION OF FOOD AND ANIMAL FEED FACILITIES
- (17) 39. ESTABLISHMENT OF PRIOR NOTIFICATION REQUIREMENT FOR ALL IMPORTED FOOD SHIPMENTS
- (18) 40. APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG: PATENT LISTING REQUIREMENTS AND APPLICATION OF 30-MONTH STAYS ON APPROVAL OF ABBREVIATED NEW DRUG APPLICATIONS
- (19) 42. FOOD LABELING: TRANS FATTY ACIDS IN NUTRITION LABELING, NUTRIENT CONTENT CLAIMS, AND HEALTH CLAIMS
- (20) 43. CGMPs FOR BLOOD AND BLOOD COMPONENTS: NOTIFICATION OF CONSIGNEES AND TRANSFUSION RECIPIENTS RECEIVING BLOOD AND BLOOD COMPONENTS AT INCREASED RISK OF TRANSMITTING HCV (LOOKBACK)
- (21) 55. REVISIONS TO AVERAGE WHOLESALE PRICE METHODOLOGY (CMS-1229-P)
- (22) 63. CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM AND FY 2004 RATES (CMS-1470-N)

Department of Housing and Urban Development

- (23) 70. RESPA—IMPROVING THE PROCESS FOR OBTAINING MORTGAGES (FR-4727)

Department of the Interior

- (24) 76. RELIEF OR REDUCTION IN ROYALTY RATES — DEEP GAS PROVISIONS

Department of Justice

- (25) 78. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (SECTION 610 REVIEW)
- (26) 79. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES (SECTION 610 REVIEW)

continued on next page

Part E: Listing of 135 “Economically Significant” Rules, October 2002* *continued*

Department of Labor

- (27) 82. DEFINING AND DELIMITING THE TERM “ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY” (ESA/W-H)
- (28) 99. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Department of Transportation

- (29) 103. SALVAGE AND MARINE FIREFIGHTING REQUIREMENTS; VESSEL RESPONSE PLANS FOR OIL (USCG-1998-3417)
- (30) 107. HOURS OF SERVICE OF DRIVERS; DRIVER REST AND SLEEP FOR SAFE OPERATIONS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Department of Veterans Affairs

- (31) 114. PAYMENT OR REIMBURSEMENT FOR EMERGENCY TREATMENT FURNISHED AT NON-VA FACILITIES

Environmental Protection Agency

- (32) 119. NESHAP: PLYWOOD AND COMPOSITE WOOD PRODUCTS
- (33) 120. NESHAP: RECIPROCATING INTERNAL COMBUSTION ENGINE
- (34) 121. NESHAP: INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS
- (35) 122. NESHAP: SURFACE COATING OF AUTOMOBILES AND LIGHT-DUTY TRUCKS
- (36) 124. CONTROL OF EMISSIONS FROM SPARK IGNITION MARINE VESSELS AND HIGHWAY MOTORCYCLES
- (37) 125. IMPLEMENTATION RULE FOR 8-HOUR OZONE NAAQS
- (38) 126. CONTROL OF EMISSIONS OF AIR POLLUTION FROM NONROAD DIESEL ENGINES AND FUEL
- (39) 127. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AND NONATTAINMENT NEW SOURCE REVIEW (NSR): ROUTINE MAINTENANCE, REPAIR, AND REPLACEMENT
- (40) 134. NATIONAL PRIMARY DRINKING WATER REGULATIONS: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE
- (41) 135. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE 2 DISINFECTION BYPRODUCTS RULE
- (42) 136. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 3
- (43) 139. OVERVIEW OF RULEMAKINGS FOR THE PURPOSE OF REDUCING INTERSTATE OZONE TRANSPORT
- (44) 144. NATIONAL PRIMARY DRINKING WATER REGULATIONS: GROUNDWATER RULE
- (45) 145. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2
- (46) 146. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT REGULATION AND EFFLUENT GUIDELINES AND STANDARDS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)
- (47) 147. MINIMIZING ADVERSE ENVIRONMENTAL IMPACT FROM COOLING WATER INTAKE STRUCTURES AT EXISTING FACILITIES UNDER SECTION 316(B) OF THE CLEAN WATER ACT, PHASE 2

Social Security Administration

- (48) 164. REVISED MEDICAL CRITERIA FOR EVALUATING IMPAIRMENTS OF THE DIGESTIVE SYSTEM (800F)
- (49) 166. NEW DISABILITY CLAIMS PROCESS—ROLES OF STATE AGENCY (816F)

From the *Unified Agenda* (86 additional rules)

Department of Agriculture

- (50) 202. 2002 FARM BILL REGULATIONS—CONSERVATION RESERVE PROGRAM
- (51) 220. 2002 FARM BILL REGULATIONS—DIRECT AND COUNTER-CYCLICAL PAYMENTS
- (52) 228. NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 2001 AND SUCCEEDING CROP YEARS
- (53) 238. 2002 FARM BILL REGULATIONS—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS; MILK PRICE SUPPORT AND DAIRY MARKET LOSS; APPLE MARKET LOSS
- (54) 239. 2002 FARM BILL REGULATIONS—SUGAR PROGRAM
- (55) 268. IMPORTATION OF SOLID WOOD PACKING MATERIAL
- (56) 308. CATASTROPHIC RISK PROTECTION ENDORSEMENT; GROUP RISK PLAN OF INSURANCE REGULATIONS; BASIC PROVISIONS
- (57) 323. FOOD STAMP PROGRAM: ADMINISTRATIVE COST REIMBURSEMENT

continued on next page

Part E: Listing of 135 “Economically Significant” Rules, October 2002* *continued*

- (58) 339. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR BIDS FOR INFANT FORMULA REBATE CONTRACTS
- (59) 365. FOOD STAMP PROGRAM: VEHICLE AND MAXIMUM EXCESS SHELTER EXPENSE DEDUCTION PROVISIONS OF PUBLIC LAW 106-387
- (60) 367. FOOD STAMP PROGRAM: WORK PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 AND THE FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997
- (61) 400. CCC SUPPLIER CREDIT GUARANTEE PROGRAM
- (62) 472. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM
- (63) 474. CONSERVATION SECURITY PROGRAM

Department of Commerce

- (64) 589. FISHING CAPACITY REDUCTION PROGRAM FOR THE CRAB SPECIES COVERED BY THE FISHERY MANAGEMENT PLAN FOR THE BERING SEA/ALEUTIAN ISLANDS KING AND TANNER CRABS
- (65) 609. PACIFIC COAST GROUND FISH FISHERY; ANNOUNCEMENT OF THE 2003 GROUND FISH FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES
- (66) 665. FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA — REGULATORY AMENDMENT TO IMPLEMENT STELLER SEA LION PROTECT MEASURES
- (67) 667. IMPLEMENTATION OF NEW DEPTH-BASED MANAGEMENT MEASURES IN THE PACIFIC COAST GROUND FISH FISHERY
- (68) 670. EMERGENCY RULE — GROUND FISH FISHERY MANAGEMENT MEASURES FOR JANUARY THROUGH FEBRUARY 2003

Department of Defense

- (69) 830. TRICARE; CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY AND PAYMENT PROCEDURES FOR CHAMPUS BENEFICIARIES AGE 65 AND OVER
- (70) 838. CHAMPUS/TRICARE; PARTIAL IMPLEMENTATION OF PHARMACY BENEFITS PROGRAM; IMPLEMENTATION OF NATIONAL DEFENSE AUTHORIZATION ACT MEDICAL BENEFITS FOR FISCAL YEAR 2001

Department of Energy

- (71) 871. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS
- (72) 872. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT
- (73) 873. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS
- (74) 874. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT AND INCANDESCENT LAMPS
- (75) 875. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Department of Health and Human Services

- (76) 1007. RATE OF REIMBURSEMENT OF PHOTOCOPY EXPENSES FOR PROSPECTIVE PAYMENT SYSTEM PROVIDERS (CMS-3055-P)
- (77) 1038. CRITERIA FOR DETERMINING WHETHER A DRUG IS CONSIDERED USUALLY SELF-ADMINISTERED (CMS-1228-P)
- (78) 1054. USE OF RESTRAINT AND SECLUSION IN RESIDENTIAL TREATMENT FACILITIES PROVIDING INPATIENT PSYCHIATRIC SERVICES TO INDIVIDUALS UNDER AGE 21 (CMS-2065-F)
- (79) 1075. MONTHLY ACTUARIAL RATES AND MONTHLY SUPPLEMENTARY MEDICAL INSURANCE PREMIUM RATE BEGINNING JANUARY 1, 2003 (CMS-8014-N)
- (80) 1090. NATIONAL STANDARD EMPLOYER IDENTIFIER (CMS-0047-F)
- (81) 1096. MODIFICATIONS TO MANAGED CARE RULES BASED ON PAYMENT PROVISIONS IN BIPA AND TECHNICAL CORRECTIONS (CMS-4040-F)
- (82) 1099. INPATIENT REHABILITATION FACILITY PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1205-N)
- (83) 1100. HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM FOR FY 2003 (CMS-1203-F)
- (84) 1101. MEDICARE PROGRAM; MEDICARE-ENDORSED PRESCRIPTION DRUG DISCOUNT CARD ASSISTANCE INITIATIVE (CMS-4027-F)

Department of Housing and Urban Development

- (85) 1126. EXCLUSION OF VETERANS’ DISABILITY COMPENSATION FOR SERVICE-CONNECTED DISABILITY FROM INCOME (FR-4746)
- (86) 1136. FAIR MARKET RENTS PROGRAMS: INCREASED FAIR MARKET RENTS FOR CERTAIN AREAS AND

continued on next page

Part E: Listing of 135 “Economically Significant” Rules, October 2002* *continued*

HIGHER PAYMENT STANDARDS (FR-4606)

Department of the Interior

(87) 1409. MIGRATORY BIRD HUNTING; PROPOSED 2002-2003 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUIREMENTS FOR INDIAN TRIBAL PROPOSALS

Department of Justice

(88) 1765. PUBLIC SAFETY OFFICERS’ BENEFITS PROGRAM

(89) 1770. VIOLENCE AGAINST WOMEN GRANT PROGRAMS

Department of Labor

(90) 1783. CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

(91) 1839. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES

(92) 1842. OCCUPATIONAL EXPOSURE TO BERYLLIUM

(93) 1843. HEARING CONSERVATION PROGRAM FOR CONSTRUCTION WORKERS

(94) 1847. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)

(95) 1860. OCCUPATIONAL EXPOSURE TO TUBERCULOSIS

(96) 1869. INJURY AND ILLNESS PREVENTION

Department of Transportation

(97) 1940. DOMESTIC PASSENGER MANIFEST INFORMATION

(98) 1955. PROCEDURES FOR COMPENSATION OF AIR CARRIERS

(99) 2096. SCREENING OF CHECKED BAGGAGE ON FLIGHTS WITHIN THE UNITED STATES

(100) 2213. MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES

(101) 2270. OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

(102) 2281. LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARD, MODEL YEARS 2005-2010

(103) 2302. HARMONIZATION OF HEAD RESTRAINTS

(104) 2318. AUTOMOTIVE FUEL ECONOMY MANUFACTURING INCENTIVE FOR ALTERNATIVE FUEL VEHICLES

(105) 2321. IMPROVED TIRE SAFETY

(106) 2334. TIRE PRESSURE MONITORING SYSTEM; PETITIONS FOR RECONSIDERATION

(107) 2358. TIRE PRESSURE MONITORING SYSTEM

Architectural and Transportation Barriers Compliance Board

(108) 3084. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

Environmental Protection Agency

(109) 3163. ELECTRIC UTILITY STEAM GENERATING UNIT MACT REGULATION

(110) 3211. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

(111) 3214. EMISSIONS FROM NONROAD SPARK-IGNITION ENGINES AND STANDARDS FOR RECREATIONAL SPARK-IGNITION ENGINES

(112) 3223. PHASE I (FIP) TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES

(113) 3374. GROUNDWATER AND PESTICIDE MANAGEMENT PLAN RULE

(114) 3441. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES GENERATED BY COMMERCIAL ELECTRIC POWER PRODUCERS

(115) 3442. STANDARDS FOR THE MANAGEMENT OF COAL COMBUSTION WASTES — NON-POWER PRODUCERS AND MINEFILLING

(116) 3489. EFFLUENT GUIDELINES AND STANDARDS FOR THE CONSTRUCTION AND DEVELOPMENT INDUSTRY

(117) 3516. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Federal Emergency Management Agency

(118) 3528. DISASTER ASSISTANCE; FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS

continued on next page

Part E: Listing of 135 “Economically Significant” Rules, October 2002* *continued*

Office of Personnel Management

(119) 3726. IMPLEMENTATION OF PREMIUM CONVERSION FOR EXECUTIVE BRANCH FEDERAL EMPLOYEES PARTICIPATING IN THE FEDERAL EMPLOYEES’ HEALTH BENEFITS (FEHB) PROGRAM

Consumer Product Safety Commission

(120) 3945. PETITION CP 01-01 REQUESTING RULE REQUIRING PRODUCT REGISTRATION CARDS FOR PRODUCTS INTENDED FOR CHILDREN
(121) 3948. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

Federal Communications Commission

(122) 3983. UNLICENSED NATIONAL INFORMATION INFRASTRUCTURE AT 5 GHZ
(123) 3993. REVISION OF THE RULES REGARDING ULTRA-WIDEBAND TRANSMISSION
(124) 4011. ALLOCATE & DESIGNATE: SPEC FOR FIXED-SAT SRV (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHZ BANDS). ALLOCATE: FIXED & MOBILE 40.5-42.5 GHZ; WIRELESS 46.9-47 GHZ; GOV OPER 37-38 & 40-40.5 GHZ; IB DOC NO. 97-95
(125) 4015. GLOBAL MOBILE PERSONAL COMMUNICATIONS BY SATELLITE; IB DOCKET NO. 99-67
(126) 4024. FLEXIBILITY FOR DELIVERY OF COMMUNICATIONS BY MOBILE SATELLITE SERVICE PROVIDERS IN THE 2 GHZ BAND, THE L-BAND, AND THE 1.6/2.4 GHZ BAND
(127) 4046. SATELLITE BROADCASTING SIGNAL CARRIAGE REQUIREMENTS
(128) 4057. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 2002
(129) 4071. SERVICE RULES FOR THE 746-764 AND 776-794 MHZ BANDS, AND REVISIONS TO PART 27 OF THE COMMISSION’S RULES
(130) 4078. TRANSFER OF THE 3650 THROUGH 3700 MHZ BAND FROM FEDERAL GOVERNMENT USE
(131) 4079. 2000 BIENNIAL REGULATORY REVIEW SPECTRUM AGGREGATION LIMITS FOR COMMERCIAL MOBILE RADIO SERVICES
(132) 4086. IMPLEMENTATION OF 911 ACT
(133) 4094. ACCESS CHARGE REFORM
(134) 4104. ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM

Nuclear Regulatory Commission

(135) 4274. REVISION OF FEE SCHEDULES; FEE RECOVERY, FY 2002

Source: Compiled from National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, December 9, 2002.

*Note: Second number denotes the sequential location in the *Regulatory Plan and Unified Agenda*.

Part F: Rules Affecting Small Business, 1994–2001

	1994	1995	1996	1997	1998	1999	2000	2001
Dept. of Agriculture	54	54	56	58	63	49	47	56
Dept. of Commerce	46	43	46	29	52	88	98	89
Dept. of Defense	22	27	22	15	21	15	7	8
Dept. of Education	0	0	1	1	0	0	0	0
Dept. of Energy	4	2	2	2	0	0	1	1
Dept. of Health & Human Services	63	59	89	100	88	75	107	108
Dept. of Housing & Urban Development	33	17	9	7	1	1	0	3
Dept. of the Interior	26	21	17	28	29	33	18	20
Dept. of Justice	17	23	27	26	10	14	14	15
Dept. of Labor	40	33	51	39	41	38	40	26
Dept. of State	1	0	2	1	0	0	2	3
Dept. of Transportation	14	24	31	44	208	246	266	244
Dept. of the Treasury	69	59	52	50	60	15	31	27
Dept. of Veterans Affairs	3	3	3	7	6	6	3	1
Advisory Council on Historic Preservation							0	0
Agency for International Development	0	1	0	0	0	0	0	1
Architectural and Transportation Barriers Compliance Board	0	0	0	0	3	2	2	1
Corporation for National & Community Service	1	0	0	0	0	0	0	0
Environmental Protection Agency	123	140	152	163	178	179	205	185
Federal Emergency Management Agency	1	3	1	0	0	0	1	1
General Services Administration	7	5	6	3	2	2	1	1
National Aeronautics & Space Administration	1	1	1	0	1	0	0	0
National Archives & Records Administration	1	1	1	1	1	0	0	0
Equal Employment Opportunity Commission	0	0	0	1	2	0	0	2
National Endowment for the Humanities	0	0	0	1	0	0	0	0
National Science Foundation	0	0	0	0	0	0	0	0
Office of Management & Budget	3	4	2	1	1	2	1	0
Railroad Retirement Board	1	2	1	1	0	0	0	0
Small Business Administration	44	62	17	13	20	28	24	21
Social Security Administration	0	4	1	0	0	2	0	0
U.S. Information Agency	0	0	0	0	0	0	0	0
Federal Acquisition Regulation	9	16	20	15	11	16	13	9
Commodity Futures Trading Commission	0	0	0	0	1	0	0	0
Consumer Product Safety Commission	2	1	1	0	0	0	0	0
Federal Communications Commission	47	52	75	70	82	91	105	117
Federal Energy Regulatory Commission	0	1	0	0	0	1	0	0
Federal Housing Finance Board	1	1	0	0	1	0	0	0
Federal Maritime Commission	0	0	0	0	5	4	7	6
Federal Reserve System	9	6	4	2	5	2	8	10
Federal Trade Commission	2	5	7	11	10	10	9	9
Federal Mediation and Conciliation Service							1	1
Interstate Commerce Commission	0	0	0	0	0	0	0	0
National Credit Union Administration	1	2	1	1	0	0	0	0
Nuclear Regulatory Commission	8	5	8	9	8	5	3	5
Resolution Trust Corporation	1	0	0	0	0	0	0	0
Securities and Exchange Commission	32	34	48	34	27	39	40	26
Total	686	711	754	733	937	963	1054	996

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Part G: Federal Rules Affecting Lower-Level Governments, 1998–2002

	Oct. 02		Oct. 01		Oct. 00		Oct. 99		Oct. 98	
	State	Local	State	Local	State	Local	State	Local	State	Local
Dept. of Agriculture	60	49	51	43	51	43	67	58	65	54
Dept. of Commerce	15	8	30	11	36	13	21	10	18	9
Dept. of Defense	2	2	3	3	2	2	2	1	4	3
Dept. of Education	1	1	0	0	0	0	0	0	0	0
Dept. of Energy	8	9	10	10	15	15	13	12	15	14
Dept. of Health & Human Services	46	21	59	21	76	26	71	23	88	23
Dept. of Housing & Urban Development	13	17	10	14	9	19	8	13	25	28
Dept. of the Interior	47	22	66	29	54	21	55	21	61	20
Dept. of Justice	28	21	28	20	25	20	31	24	28	22
Dept. of Labor	25	16	33	23	31	24	34	25	32	24
Dept. of State	2	1	2	2	2	1	1	1	1	1
Dept. of Transportation	42	23	41	23	49	31	50	33	47	29
Dept. of the Treasury	17	12	16	8	16	8	11	7	16	12
Dept. of Veterans Affairs	4	1	6	1	6	1	9	3	7	2
Advisory Council on Historic Preservation	1	0	0	0	1	0	1	0	1	0
Agency for International Development	0	0	0	0	1	1	0	0	0	0
Architectural and Transportation Barriers Compliance Board	3	3	3	3	4	4	4	4	2	2
Environmental Protection Agency	155	101	180	113	228	136	281	173	250	147
Federal Emergency Management Agency	8	8	7	8	5	6	5	4	5	3
General Services Administration	10	6	6	1	4	1	2	1	5	2
National Aeronautics & Space Agency	0	0	0	0	1	1	0	0	2	2
National Archives & Records Administration	4	4	5	5	5	5	4	4	2	2
National Endowment for the Arts	1	1	1	1	1	1	1	1	1	1
Equal Employment Opportunity Commission	2	2	1	1	3	3	3	3	4	4
Natioanal Endowment for the Humanities	1	1	1	1	1	1	0	0	0	0
National Science Foundation	0	0	1	0	1	1	0	0	0	0
Office of Management & Budget	0	0	0	0	0	0	0	1	1	2
Railroad Retirement Board	0	0	0	0	1	0	1	0	1	0
Small Business Administration	0	0	0	0	1	1	0	0	2	0
Social Security Administration	5	3	6	3	7	3	11	3	9	3
Tennessee Valley Authority	0	0	0	0	1	1	0	0	0	0
U.S. Information Agency	0	0	0	0	0	0	0	0	0	0
Federal Communications Commission	23	18	25	18	27	20	30	22	30	21
Federal Energy Regulatory Commission	2	2	2	2	2	2	2	2	0	0
Federal Reserve System	0	0	0	0	1	0	1	0	1	0
Federal Trade Commission	1	0	2	0	2	0	2	0	2	0
National Indian Gaming Commission	1	0	1	0	1	0	1	0	1	0
Nuclear Regulatory Commission	1	1	1	1	2	2	1	1	1	1
Securities and Exchange Commission	0	0	3	0	1	1	2	2	1	0
Corporation for National and Community Service	8	8	6	6	4	4	1	1	1	1
National Credit Union Administration	1	0	0	0	0	0	0	0	0	0
Institute of Museum and Library Services	2	2	2	2	2	2	0	0	0	0
State and Local Totals	539	363	608	373	679	420	726	453	729	432

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, various years.

Notes

1. Office of Management and Budget, *Draft 2003 Report to Congress on the Costs and Benefits of Federal Regulations*, 2003, Table 2, p. 5494. Published in *Federal Register* 68, no. 22, www.whitehouse.gov/omb/fedreg/2003draft_cost-benefit_rpt.pdf.
2. *Ibid.*, p. 5493.
3. W. Mark Crain and Thomas D. Hopkins, "The Impact of Regulatory Costs on Small Firms," Report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, www.sba.gov/advo/research/rs207tot.pdf.
4. *Ibid.*, p. 26 n. 26. Crain and Hopkins update Thomas D. Hopkins, "Profiles of Regulatory Costs: Report to the U.S. Small Business Administration, U.S. Department of Commerce," NTIS PB96128038, November 1995, www.sba.gov/ADVO/research/rs1995hoptot.pdf.
5. In 1995, Hopkins projected that regulatory costs would grow from \$668 billion to \$721 billion, an annual growth rate of 1.3 percent. (Hopkins, "Profiles of Regulatory Costs," Table A-1.) Relatedly, Crain and Hopkins tabulated a 1.2 percent annualized compound growth rate between those same years in "total regulatory costs per household" for major categories of regulation. For present purposes, a growth trend of just 1 percent is applied to the Crain and Hopkins 2000 figure to arrive at a more conservative 2002 estimate. (If the 1.3 percent growth rate had been used instead, the estimate for total 2002 regulatory costs would have been \$865 billion.)
6. A breakdown in the original dollars for 2000 appears in Table 8, "Total Cost of Federal Regulations: By Type and Allocation between Businesses and Others," Crain and Hopkins, p. 25.
7. See Thomas D. Hopkins, Prepared Statement for the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the House Committee on Government Reform and Oversight, May 16, 1996. See also Thomas D. Hopkins, "Regulatory Costs in Profile," Center for the Study of American Business Policy Study no. 231, August 1996, p. 4.
8. Crain and Hopkins, p. 5.
9. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2003–2012*, January 2002, www.cbo.gov/showdoc.cfm?index=3277&sequence=2.
10. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2004–2013*, Chapter 1, p. 4, [ftp://ftp.cbo.gov/40xx/doc4032/Chapter1.pdf](http://ftp.cbo.gov/40xx/doc4032/Chapter1.pdf).
11. Figures for 2001 outlays and deficit are contained in Congressional Budget Office, January 2002. Outlays and surplus for 2000 are contained in Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2002–2011*, January 2001, www.cbo.gov/showdoc.cfm?index=2727&sequence=2.
12. Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 454, "Federal Receipts by Source: 1980 to 2002," p. 308, www.census.gov/prod/2003pubs/02statab/fedgov.pdf.
13. *Ibid.*
14. U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 743, "Corporate Profits, Taxes, and Dividends: 1990 to 2001," p. 495, www.census.gov/prod/2003pubs/02statab/business.pdf.
15. GDP figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 1320, "Gross Domestic Product (GDP) by Country: 1995 to 2000," p. 834, www.census.gov/prod/2003pubs/02statab/intlstat.pdf.
16. *The Budget and Economic Outlook*, January 2003, Table E-1, "CBO's Year-by-Year Forecast and Projections for Calendar Years 2003 through 2013," [ftp://ftp.cbo.gov/40xx/doc4032/AppendixE.pdf](http://ftp.cbo.gov/40xx/doc4032/AppendixE.pdf).
17. Susan Dudley and Melinda Warren, *Regulatory Response: An Analysis of the Shifting Priorities of the U.S. Budget for Fiscal Years 2002 and 2003*, Regulatory Budget Report 24, Published jointly by the Weidenbaum Center and the Mercatus Center, June 2002, p. 25, <http://wc.wustl.edu/RegBudgetFinal.pdf>. Original 1996 constant dollars are adjusted by the change in the consumer price index between 1996 and 2001, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2002*, Table 681, "Consumer Price Indexes (CPI-U), by Major Groups: 1980 to 2001," p. 451.
18. *Ibid.* This figure is also adjusted by the change in CPI.
19. *Ibid.* p. 26.
20. See, for example, Cindy Skrzycki, "Midnight Regulations' Swell Register," *Washington Post*, January 23, 2001, p. E1.
21. Counting 2000 as part of the new millennium, which is technically incorrect.

22. National Archives and Records Administration, Office of the Federal Register, *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, printed in *Federal Register* 67, no. 236, December 9, 2002. Cited hereinafter as *Agenda*.
23. Though the *Agenda* is published twice a year, this document tracks each year's October edition.
24. *Agenda*, p. 74052.
25. *Ibid.*, p. 75675.
26. The legislation and executive orders by which agencies are directed to assess impacts on state and local governments are described in *ibid.*, p. 75699.
27. Dudley and Warren, from pp. 16 and 17.
28. Noted in letter to the Honorable Jacob J. Lew, Director, Office of Management and Budget, from Sen. Fred Thompson (R-Tenn.), Chairman, Senate Committee on Governmental Affairs, and Sen. Ted Stevens (R-Alaska), Chairman, Senate Committee on Appropriations, October 10, 1998, p. 2.
29. For a complete analysis see David Schoenbrod and Jerry Taylor, "The Delegation of Legislative Powers," *Cato Handbook for Congress: Policy Recommendations for the 108th Congress*, pp. 77–85, www.cato.org/pubs/handbook/hb108/hb108-8.pdf.
30. Derived from *Catalog of Public and Private Laws—107th Congress*, National Archives and Records Administration, www.access.gpo.gov/nara/publaw/107publ.html.

Cato Institute

Founded in 1977, the Cato Institute is a public research foundation dedicated to broadening the parameters of policy debate to allow consideration of more options that are consistent with the traditional American principles of limited government, individual liberty, and peace. To that end, the Institute strives to achieve greater involvement of the intelligent, concerned lay public in questions of policy and the proper role of government.

The Institute is named for *Cato's Letters*, libertarian pamphlets that were widely read in the American Colonies in the early 18th century and played a major role in laying the philosophical foundation for the American Revolution.

Despite the achievement of the nation's Founders, today virtually no aspect of life is free from government encroachment. A pervasive intolerance for individual rights is shown by government's arbitrary intrusions into private economic transactions and its disregard for civil liberties.

To counter that trend, the Cato Institute undertakes an extensive publications program that addresses the complete spectrum of policy issues. Books, monographs, and shorter studies are commissioned to examine the federal budget, Social Security, regulation, military spending, international trade, and myriad other issues. Major policy conferences are held throughout the year, from which papers are published thrice yearly in the *Cato Journal*. The Institute also publishes the quarterly magazine *Regulation*.

In order to maintain its independence, the Cato Institute accepts no government funding. Contributions are received from foundations, corporations, and individuals, and other revenue is generated from the sale of publications. The Institute is a non-profit, tax-exempt, educational foundation under Section 501(c)3 of the Internal Revenue Code.

CATO INSTITUTE
1000 Massachusetts Ave., N.W.
Washington, D.C. 20001
www.cato.org