

TEN THOUSAND COMMANDMENTS

AN ANNUAL SNAPSHOT
OF THE
FEDERAL REGULATORY STATE

2002 Edition



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An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews Jr.

Executive Summary

In the fiscal year 2003 federal budget, President Bush proposed \$2.01 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. But governmental and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits—all of which can be compiled in a way that makes the regulatory state more comprehensible to the public. That is the purpose of the annual *Ten Thousand Commandments* report, some highlights of which appear below.

- The 2001 *Federal Register* contained 64,431 pages, a 13.2 percent decline from 2000.
- In 2001, 4,132 final rules were issued by agencies.
- Whereas regulatory agencies that are unaccountable to the public issued 4,132 rules,

Congress passed and the president signed into law just 108 bills in 2001.

- In 2001, 4,509 regulations were at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions, a decrease of 4 percent from the previous year.
- Of the 4,509 regulations now in the works, 149 are “economically significant” rules that will have at least \$100 million in economic impact. Those rules will impose at least \$14.9 billion yearly in future off-budget costs.
- Economically significant rules in the works decreased 5.7 percent between 2000 and 2001, from 158 to 149.
- The five most active rule-producing agencies (the Departments of Transportation, Treasury, Interior, and Commerce and the Environmental Protection Agency) account for 48 percent of all rules under consideration.
- Of the 4,509 regulations now in the works, 996 impact small business. Rules affecting small business are down 5.5 percent over the past year and up 36 percent over the past five years.

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Congress should be held directly accountable for the compliance costs—as well as the benefits—of federal regulations.

- The costs of meeting the demands of off-budget social regulations were as high as \$229 billion according to the Office of Management and Budget. A more broadly constructed competing estimate that includes economic regulatory costs and paperwork costs pegs regulatory expenditures at \$854 billion in 2001, or 46 percent of all FY01 outlays.
- Regulatory costs of \$854 billion are equivalent to 8.4 percent of U.S. gross domestic product, estimated at \$10,193 billion for 2001.
- Regulatory costs rival the amount estimated to be paid in 2001 individual income taxes, which was \$1,073 billion. They also rival all corporate pretax profits, which were \$946 billion in 2000.
- In 1998 the median two-earner family's after-tax income of \$41,846 contained \$7,410 in hidden regulatory costs. Thus, regulatory costs eat up about 18 percent of the after-tax family budget.
- Agencies spent \$21 billion to administer and police the regulatory state in 2001, 9.4 percent more than the previous year. Counting the \$854 billion in off-budget costs, that brings the total regulatory burden to \$875 billion.

With the FY02 and FY03 budgets, the U.S. government has conclusively ended its first string of budgetary surpluses in decades, but they are projected to return by 2005. But, if regaining and maintaining a true surplus remains a priority, sincere policymaking must seek to control regulatory costs. Think of it this way: The maximum surplus projected by the Congressional Budget Office over the coming decade is \$641 billion in 2012. But regulatory costs of more than \$800 billion already 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, some people propose that agency analyses be subjected to third-party review. But even that is unlikely to be enough, since agencies will rarely 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 to raise taxes to pay for new programs. The second is to borrow 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. Although programs may be controversial, Congress is largely held accountable for them, and that accountability, though not perfect, is a fundamental, necessary condition for controlling government.

The third way the government funds its programs is to regulate. That is, rather than pay directly and book the expense of a new

initiative, it can require that the private sector and lower-level governments pay. By regulating, the government can carry out desired programs but avoid using tax dollars to fund them. 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 regulatory

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.

Table 1
The Regulatory State: An Overview

	2001	1-Year Change	5-Year Change (97–01)	10-Year Change (92–01)
Total regulatory costs	\$854 billion	NA	NA	NA
Agency enforcement budgets (real \$)	\$21 billion	9.4%	19.5%	28.2%
Net <i>Federal Register</i> pages	64,431	-13.2%	0%	13%
<i>Federal Register</i> pages devoted to final rules	19,643	-19.8%	3.5%	23.4%
Total <i>Federal Register</i> rule documents	6,644	-4.4%	-11%	-9.3%
<i>Federal Register</i> final rule documents	4,132	-4.2%	-9.9%	-.5%
Total rules in <i>Agenda</i>	4,509	-4%	2.3%	-8.1%
“Economically significant” rules in the pipeline	149	-5.7%	19.2%	NA
Rules impacting small business	996	-5.5%	35.9%	NA
Rules impacting state governments	608	-10.4%	-12.9%	NA
Rules impacting local governments	373	-11.2%	-15.6%	NA
Major rules finalized by agencies	72	-1.4%	20%	NA
EPA rules				
Total number of EPA rules in <i>Agenda</i>	416	-7.3%	-3.2%	NA
“Economically significant” EPA rules in <i>Agenda</i>	25	-19.3%	-34.2%	NA
Final rules issued by EPA	4	-20%	-33.3	NA
EPA rules impacting small business	185	-9.7%	13.5%	NA

Note: NA = not available.

Regulatory reform should emphasize ending “regulation without representation.”

”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 2002 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 and its impact on the family budget.
- An analysis of trends in the numbers of regulations issued by agencies, based on data and information provided in the *Federal Register* and 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.
- The Appendix 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 2001 report on regulatory costs and benefits determined that costs of social regulations (such as environmental quality and health and safety rules) ranged from \$146 billion to \$229 billion. OMB further estimated that the benefits of those rules range from \$254 billion to \$1.8 trillion.¹ As Table 2 shows, those findings led OMB to report “net benefits” of federal regulation in the range of \$25 billion to \$1.65 trillion. In the worst case, then, OMB found that regulations produced \$25 billion in net benefits. Note, how-

ever, that OMB’s cost/benefit breakdown used only benefits and costs that were both quantified and monetized. Furthermore, as OMB noted, cost/benefit analysis is highly sensitive to basic assumptions made about how regulations translate to benefits.²

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 the OMB report did. But Crain and Hopkins also included 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). Their report found 2000 regulatory costs of \$843 billion. (That estimate is largely in line with the \$815 predicted for 2000 by Hopkins in a 1995 report for the Small Business Administration.)⁴

Updating the Crain and Hopkins 2000 regulatory costs for 2001 by extrapolating the growth in regulatory costs between 1995 and 2000 yields an estimate of \$854 billion.⁵ Figure 1 breaks down the regulatory cost estimate by category: environmental, economic, workplace, and tax compliance. Economic costs, the largest category at \$441 billion, include such items as price and entry controls on business and losses from economic transfers. Given that indirect costs—such as the impacts of lost innovation or productivity—are not included in the Crain and Hopkins analysis, these figures likely understate the total regulatory burden.⁶ On the other hand, regulatory benefits are beyond the scope of the Crain and Hopkins analysis, yet those benefits would be recognized as offsetting some costs.⁷ (OMB explicitly offsets costs with benefits.)

Regulation vs. Government Spending

After nearly three decades of deficit spending, the federal government’s budget has been temporarily in balance. Indeed, Washington posted a total surplus of \$127 billion in 2001.⁸ According to the Congressional Budget Office, the current FY02 and the new FY03 budgets

Table 2
Estimates of Total Annual Benefits and Costs of Social Regulations (billions of 1996 dollars, as of 2000)

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

Source: Office of Management and Budget, Office of Information and Regulatory Affairs, *Making Sense of Regulation: 2001 Report to Congress on the Costs and Benefits of Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, 2001, Table 2, p. 11, www.whitehouse.gov/omb/inforeg/costbenefitreport.pdf.

both project overall deficits, however. Deficit spending can also manifest itself as regulatory compliance costs that go largely unacknowledged by the federal government.

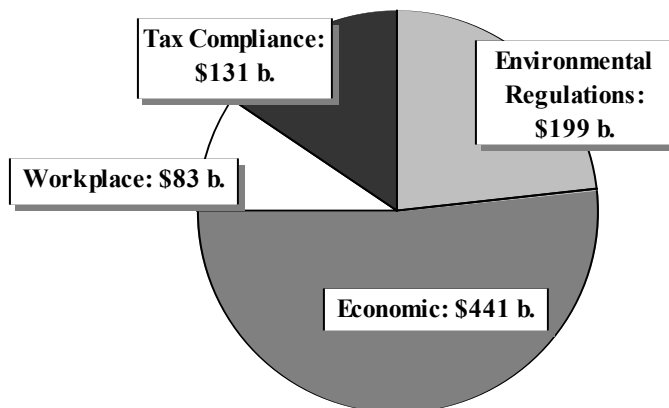
As Figure 2 shows, 2001's \$854 billion in regulatory costs is equivalent to 46 percent of on-budget spending of \$1,864 billion. Figure 2 also projects the 2000 and 2001 surpluses compared with regulatory costs for those years,⁹ both of which are swamped by the costs of regulations.

Regulatory Costs vs. Income Taxes and Corporate Profits

Regulatory costs exceed revenue from most major taxes. Regulatory costs stand to the shoulder of estimated 2001 individual income taxes, which were \$1.07 trillion, as Figure 3 shows.¹⁰ Corporate taxes, estimated at \$213.1 billion that year, are greatly outdistanced by regulatory costs.¹¹ Even pretax corporate profits, \$946 billion in 2000, are rivaled by regulatory costs.¹²

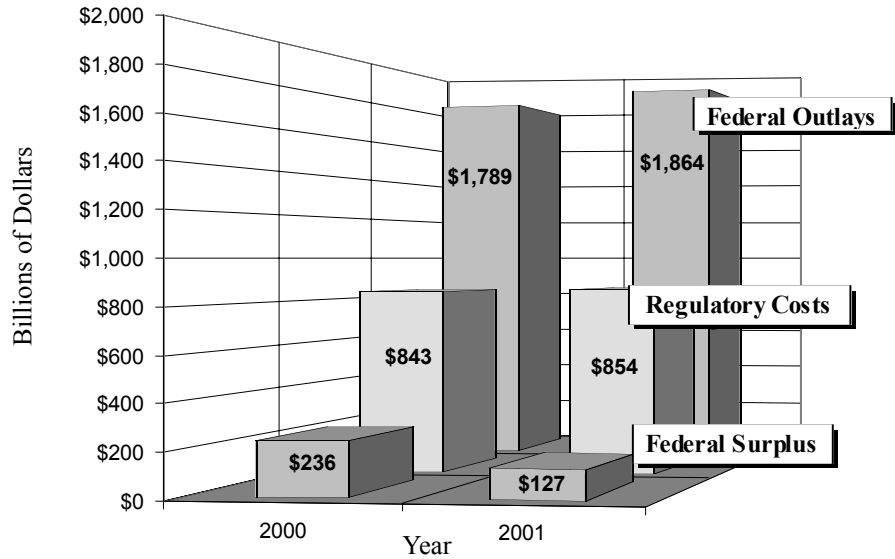
Regulatory costs exceed revenue from most major taxes.

Figure 1
2001 Federal Regulatory Costs: \$854 Billion



Source: 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.

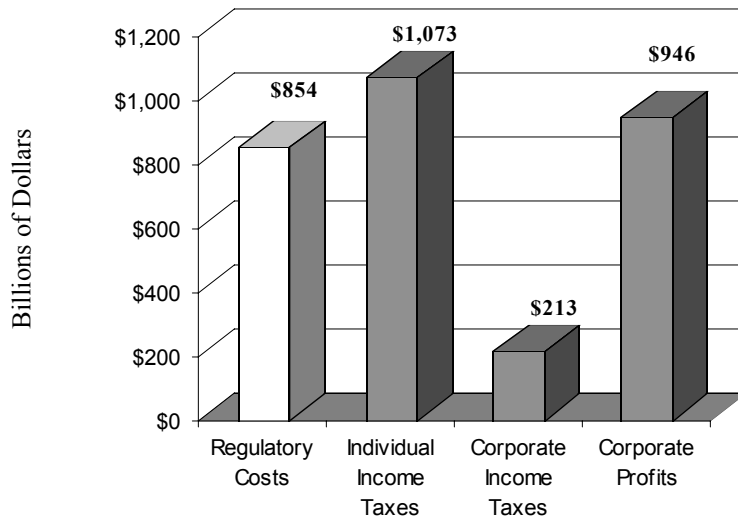
Figure 2
Off-Budget Regulatory Costs Compared with Projected Federal Spending and Surplus
(2000–01 dollars)



Sources: Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2003–2012*, January 2002, www.cbo.gov/showdoc.cfm?index=3277&sequence=2; 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.

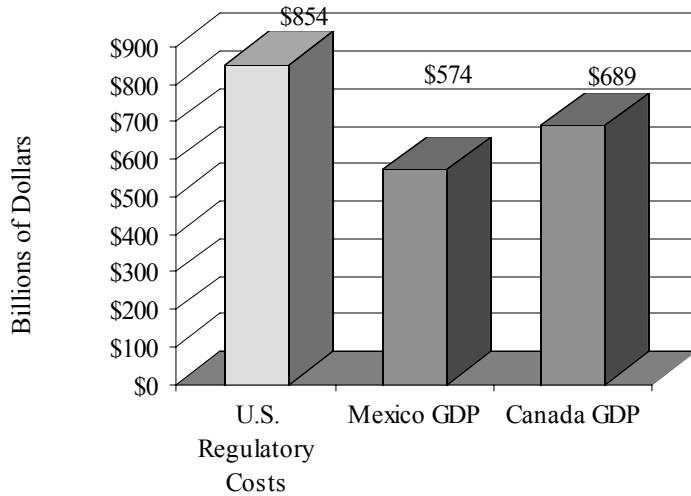
Notes: Regulatory costs for 2001 are projected on the basis of average annual increases in regulatory costs between 1995 and 2000 in Crain and Hopkins. Federal surplus and outlay numbers are by fiscal year; regulatory costs are by calendar year.

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



Source for taxes and profits: U.S. Census Bureau, *Statistical Abstract of the United States: 01*, Table 459, p. 305, and Table 758, p. 501.

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: 2001*, Table 1340, p. 841, www.census.gov/prod/2002pubs/01statab/intlstat.pdf.

To put regulation into further perspective, U.S. regulatory costs of \$854 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 \$689 billion. The regulatory burden also exceeded Mexico’s GDP of \$574 billion.¹³

Total regulatory costs of \$854 billion are substantial—8.4 percent of U.S. GDP. (The Congressional Budget Office has estimated GDP to be \$10,193 billion for calendar year 2001.)¹⁴ Combined with direct federal outlays of \$1,864 billion, the federal government’s share of the economy is some 26.7 percent. This is a slight increase from last year, when the combined regulatory and outlay share of GDP was 25.8 percent.

Regulatory Costs Eat into the Family Budget

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

So how much of the American family budget is absorbed by regulatory costs? For the median two-earner family, 1998 (the latest year for which data are available) after-tax income was \$41,846, according to the Tax Foundation.¹⁵ Economic, social, and environmental regulatory costs totaled an estimated \$749 billion 1998 dollars for that year, which broke out to \$7,410 for the typical family of four (Figure 5).¹⁶ That means embedded regulatory costs absorbed 17.7 percent of the typical household’s after-tax income.

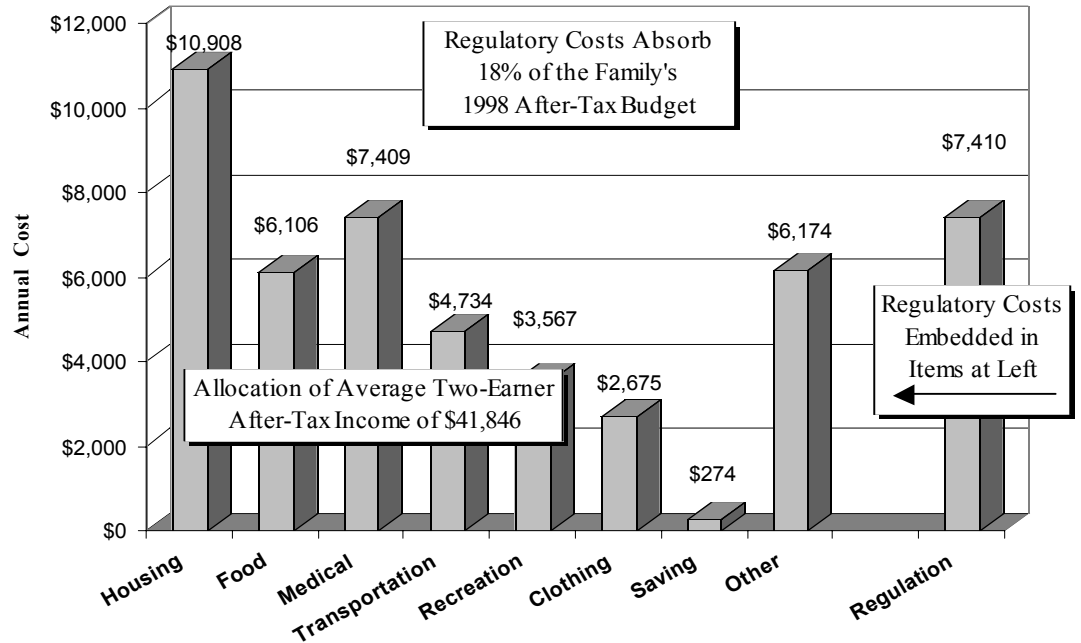
Embedded regulatory costs now exceed spending for every item except housing in the average family’s after-tax budget. More is spent on regulation than on medical expenses, food, transportation, recreation, clothing, and savings.

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

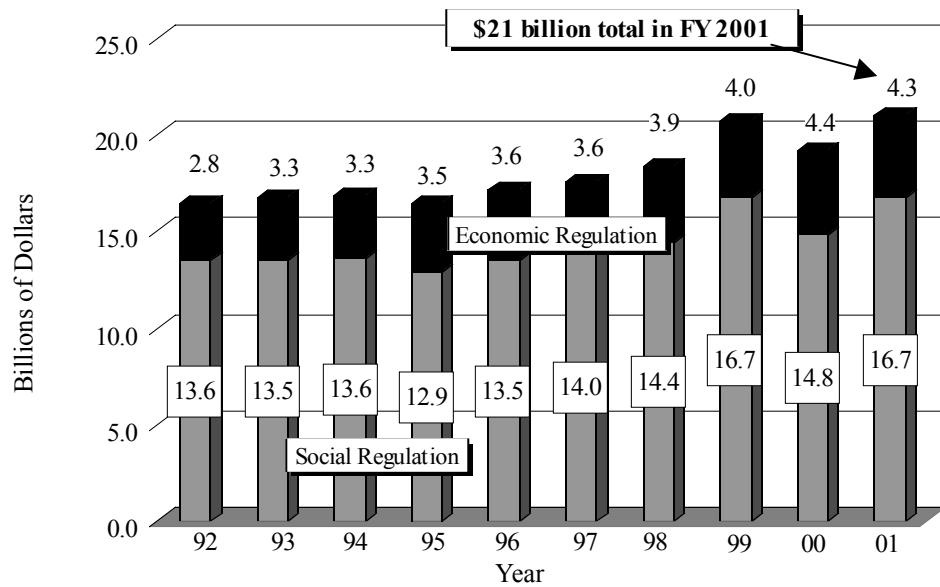
U.S. regulatory costs of \$854 billion exceed the output of many entire national economies.

Figure 5
After-Tax Budget of Two-Earner Family



Sources: Author's calculations based on Tax Foundation data and Thomas D. Hopkins, "Profiles of Regulatory Costs: Report to the US Small Business Administration, U.S. Department of Commerce," NTIS PB96128038, November 1995, www.sba.gov/ADVO/research/rs1995hoptot.pdf.

Figure 6
Agency Enforcement Budgets, 1992–2001 (billions of constant 2000 dollars)



Source: Melinda Warren, Weidenbaum Center on the Economy, Government, and Public Policy, Washington University, St. Louis, personal communication, summer 2001. Original 1996 constant dollars used by the Weidenbaum Center are adjusted by the change in the consumer price index between 1996 and 2000, computed from U.S. Census Bureau, *Statistical Abstract of the United States: 2001*, Table 692, p. 453.

amounts spent by federal agencies to produce rules and police regulatory compliance. The Weidenbaum Center at Washington University in St. Louis studies the federal budget to 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 FY01 enforcement costs incurred by federal departments and agencies reached a record high of \$21 billion (constant 2000 dollars), an increase of 9.4 percent over the previous year. (Figure 6).¹⁷ Of that amount, \$4.3 billion was spent administering economic regulation. The larger amount spent for writing and enforcing social and environmental regulations rose from \$14.8 billion to \$16.7 billion.

The Weidenbaum Center numbers help fill in the picture of the regulatory state. Adding the \$21 billion in administrative costs tabulated by the center to the Crain and Hopkins \$854 billion estimate for compliance costs brings the total 2001 regulatory burden to \$875 billion. (The center expects total regulatory enforcement costs for FY02 to decline to \$19.9 billion.)¹⁸

Federal agency staff employed to write and enforce regulations is also on the rise. Full-time-equivalent employment staffing reached 131,860 in FY01, according the center, a 4.8 percent increase over 2000.

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.

Nonetheless, it is surely worthwhile to track the *Register's* growth via pages, provided the appropriate caveats are kept in mind. As Figure 7 shows, in 2001 the number of pages dropped to 64,431 from 74,258 the year before, a 13.2 percent decline. That is notable because the count for 2000—Clinton's last year and a year in which he was charged with pushing through "midnight regulations" prior to Bush's arrival¹⁹—was the record high for the *Register*. From 1992 to 2001 the overall page count increased 13 percent, but with the 2001 drop under Bush the tally now stands about where it did five years ago. (For a history of *Federal Register* page totals going back to 1936, see Appendix: Historical Tables, Part A.)

There is another interesting way of looking at *Federal Register* page trends. The *Federal Register* averaged 52,922 pages throughout the 1980s, including the 1980 peak of 73,000 pages. But during the 1990s the number of pages averaged 62,237 per year.

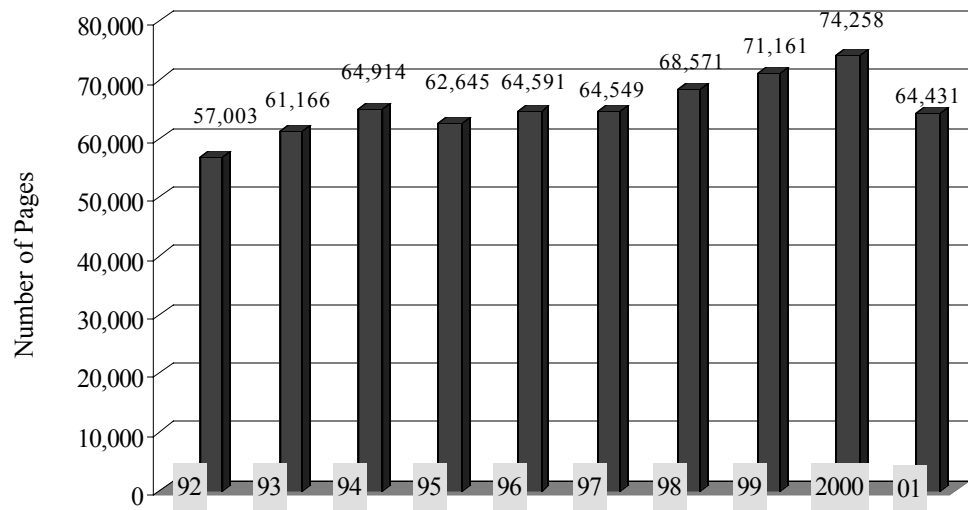
It is clear that, in terms of page counts, rules exhibited an upward trend during the 1990s despite the Republican takeover of Congress in 1995. What ultimately happens now that President Bush is in office remains to be seen, but the drop over the past year is dramatic. The last time the number of *Federal Register* pages fell notably was in 1995, when a new influx of Republican congressional reformers kept a watchful eye on the number of *Federal Register* pages and cited the number frequently as a gauge of regulation. The partial federal government shutdown, which slowed the promulgation of new regulations for a time, also accounts for the drop that year

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

Overall page counts alone do not tell one whether actual regulatory burdens imposed

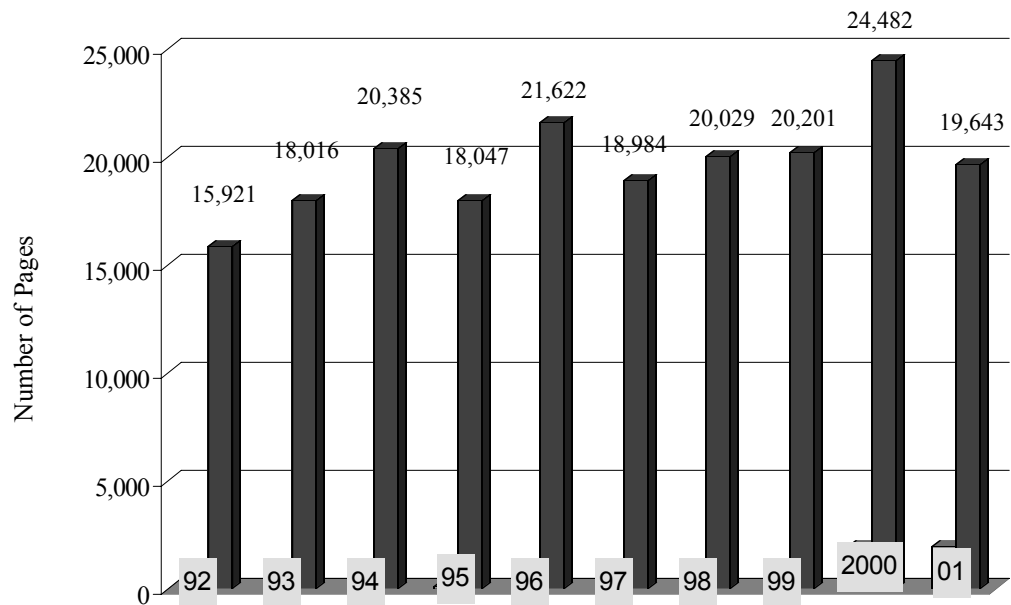
In 2001, the number of *Federal Register* pages was 64,431.

Figure 7
Number of *Federal Register* Pages, 1992–2001



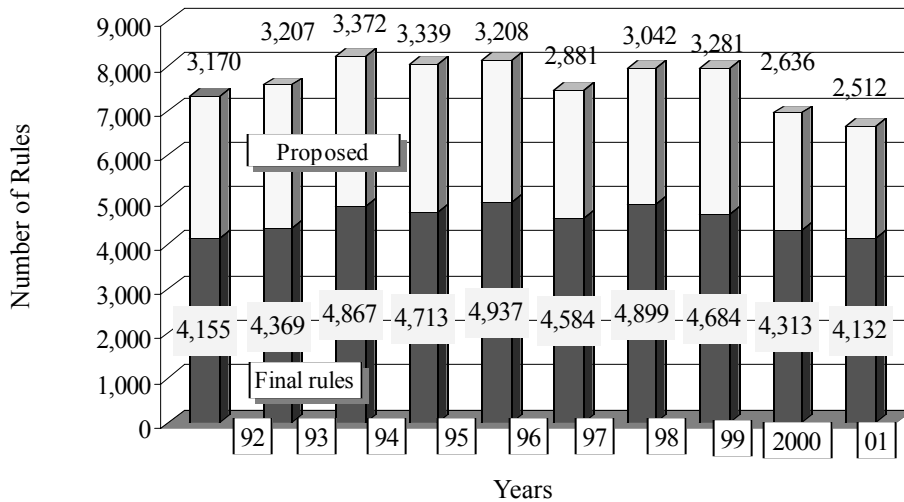
Source: National Archives and Records Administration, Office of the Federal Register.

Figure 8
***Federal Register* Pages Devoted to Final Rules**



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

Figure 9
Number of Rules Published in the *Federal Register*, 1992–2001



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

have increased or decreased; as noted, a short rule can 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.

Pages in the *Federal Register* devoted to final rules have increased 23.4 percent (from 15,921 to 19,643) since 1992 (Figure 8). But, as it was for overall pages, the drop between Clinton’s last year and Bush’s first was extremely dramatic. The 2000 count of 24,482 pages under Clinton was the greatest since 1976, when the *Federal Register* page count by category was begun. 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 though before the arrival of the Bush administration.

Despite the caveats discussed above, it is reasonable to suppose that the higher overall number of pages and the number of pages devoted to final rules today compared with past decades genuinely signify higher levels of final rule costs. To determine whether that

is actually the case requires further analysis.

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

The actual numbers of proposed and final rules in the *Federal Register* deserve attention. As can be seen in Figure 9, in 2001 the total number of proposed and final rules published dropped considerably, to 6,644. That is the lowest count during the past 10 years.

The number of final rules issued by agencies stood at 4,132 in 2001, which was a drop of 4 percent from the 2000 count. Although the number of rules published has declined over the past decade, especially over the past few years, the cumulative impacts of such regulation can matter as much as growth in any one particular year. The bottom line is that the annual outflow of more than 4,000 final rules led to *more than 32,000 final rules issued from 1995 to 2001*—that is, since the Republican takeover of Congress. It must be remembered, however, that the costs of those rules can vary tremendously. (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 annual outflow of more than 4,000 final rules led to more than 32,000 final rules issued from 1995 to 2001—that is, since the Republican takeover of Congress.

Federal agencies, departments, and commissions are at work on 4,509 regulations from the prerule to the just-completed stages.

The Regulatory Plan and the Unified Agenda of Federal Regulations Analysis

4,509 New Rules in the Pipeline

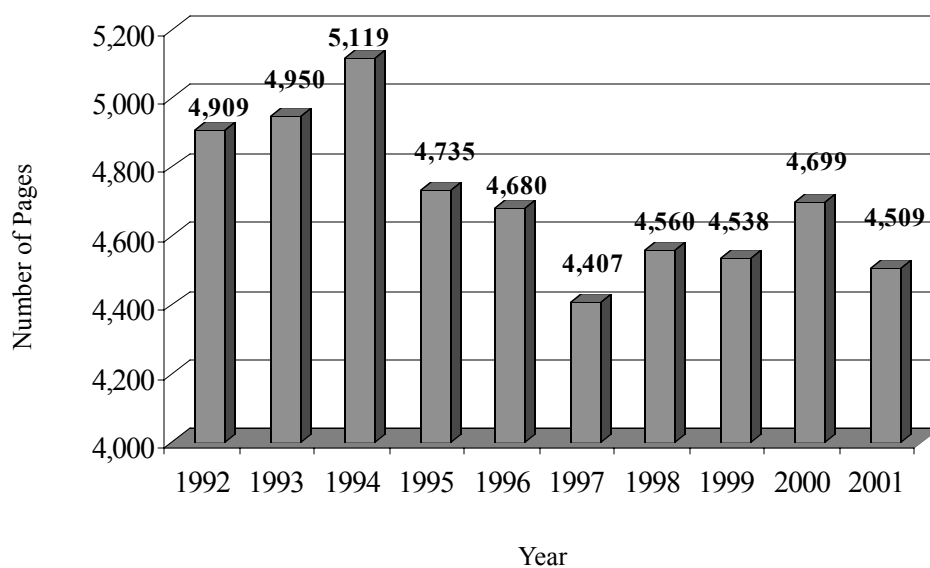
The federal Regulatory Information Service Center releases *The Regulatory Plan and the Unified Agenda of Federal Regulations* each April and October. The *Agenda* outlines recently completed rules as well as those anticipated within the upcoming 12 months by the roughly 60 federal departments, agencies, and commissions. The *Agenda* serves as a rough gauge of what's in the regulatory pipeline at a given time. 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 rulemakings. 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* 4,500-plus rules impact primarily the private sector, but many also impact lower-level governments and the federal government.

The October 2001 *Agenda* finds federal agencies, departments, and commissions at work on 4,509 regulations from the prerule to the just-completed stages.²⁰ As Figure 10 shows, the number of rules in the *Agenda* peaked at 5,119 in October 1994 and then declined. Nonetheless, the count has topped 4,500 for the past four years. Between 2000 and 2001 the number of rules in the *Agenda* fell 4 percent, from 4,699 to 4,509. (For a history of numbers of rules in the *Agenda* since 1983, see Appendix: Historical Tables, Part C.)²¹

Table 3 breaks down October 2001's 4,509 rules by issuing department, agency, or commission. It is apparent that a handful of agencies accounts for a large number of the rules produced, and such is the case each

Figure 10
Total Agency Rules in the *Agenda* Pipeline, 1992–2001



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

Table 3
Agenda entries by Department and Agency, October 2001

	Total Rules		Total Rules
Dept. of Agriculture	312	Office of Management & Budget	5
Dept. of Commerce	342	Office of Personnel Management	91
Dept. of Defense	93	Peace Corps	9
Dept. of Education	8	Pension Benefit Guaranty Corporation	11
Dept. of Energy	61	Railroad Retirement Board	13
Dept. of Health & Human Services	277	Selective Service System	1
Dept. of Housing & Urban Development	89	Small Business Administration	37
Dept. of the Interior	423	Social Security Administration	85
Dept. of Justice	229	Tennessee Valley Authority	3
Dept. of Labor	141	Federal Acquisition Regulation	48
Dept. of State	32	Commodity Futures Trading Commission	30
Dept. of Transportation	511	Consumer Product Safety Commission	21
Dept. of the Treasury	458	Farm Credit Administration	17
Dept. of Veterans Affairs	164	Farm Credit System Insurance Corporation	1
Agency for International Development	6	Federal Communications Commission	145
Architectural and Transportation Barriers Compliance Board	5	Federal Energy Regulatory Commission	8
Commission on Civil Rights	1	Federal Housing Finance Board	12
Corporation for National & Community Service	9	Federal Maritime Commission	7
Environmental Protection Agency	416	Federal Reserve System	32
Federal Emergency Management Agency	30	National Credit Union Administration	22
General Services Administration	35	Nuclear Regulatory Commission	42
National Aeronautics & Space Administration	17	Securities and Exchange Commission	80
National Archives & Records Administration	19	Federal Trade Commission	13
Institute of Museum Services	5	Federal Deposit Insurance Corporation	22
National Endowment for the Arts	5	National Indian Gaming Commission	15
Equal Employment Opportunity Commission	3	Surface Transportation Board	4
National Endowment for the Humanities	8	Federal Mediation and Conciliation Service	3
National Science Foundation	3	Udall Inst. for Environmental Conflict Res.	3
Office of Federal Housing Enterprise Oversight	9	Court Services/Offender Supervision, D.C.	5
Office of Government Ethics	11	Presidio Trust	2
		Total	4,509

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, October 2001.

Table 4
The Top Rule-Producing Agencies

Agency	Number of Regulations
1. Department of Transportation	511
2. Department of the Treasury	458
3. Department of the Interior	423
4. Environmental Protection Agency	416
5. Department of Commerce	342
Top-Five Total	2,150

Source: Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, October 2001.

Table 5
149 Rules in the Pipeline Expected to Cost More Than \$100 Million Annually, as of October 2001

	Prerule	Proposed	Final	Long-term	Completed	Total
Dept. of Agriculture	1	6	4	4	2	17
Department of Commerce	0	1	2	0	1	4
Department of Defense	0	0	2	0	0	2
Dept. of Energy	3	0	1	4	2	10
Dept. of Health & Human Services	0	9	5	6	8	28
Dept. of Justice	0	2	0	0	0	2
Dept. of the Interior	1	1	1	0	1	4
Dept. of Labor	3	3	0	6	6	18
Dept. of Transportation	0	4	3	1	0	8
Dept. of Veterans Affairs	0	1	2	0	1	4
Architectural and Transportation Barriers Compliance Board	0	0	2	0	0	2
Environmental Protection Agency	0	12	5	7	1	25
Federal Emergency Management Admin.	0	1	0	0	1	2
Office of Personnel Management	0	0	1	0	0	1
Small Business Administration	0	1	0	0	0	1
Federal Acquisition Regulation	0	1	0	0	0	1
Consumer Product Safety Commission	1	1	0	1	0	3
Federal Communications Commission	0	0	0	13	2	15
Office of Federal Housing Enterprise Oversight	0	0	0	1	0	1
Nuclear Regulatory Commission	0	0	0	0	1	1
Total	9	43	28	43	26	149

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, October 2001.

Five agencies, with 2,150 rules among them, account for 47.7 percent of all rules in the pipeline.

year. The agencies and departments listed in Table 4 were the biggest rulemakers. Those “Top Five,” with 2,150 rules among them, account for 47.7 percent of all rules in the *Agenda* pipeline. (For numbers of rules by department and agency from previous editions of the *Agenda*, see Appendix: Historical Tables, Part D.)

As examples of recent initiatives, agencies noted the following rules (among many others) as priorities in the 2000 and 2001 *Agendas*.

Department of Health and Human Services

- Standards for privacy of individually identifiable health information
- Control of *Salmonella enteritidis* in shell eggs during production and retail
- Development of hazard analysis critical control points and label warning statements for fruit and vegetable juices

Department of Labor

- Safety and health programs for general industry and the maritime industries
- Indoor air quality in the workplace

Department of Energy

- Energy efficiency standards for water heaters and clothes washers

Department of Transportation

- Registration and training for operators of propane-tank-filling equipment
- Automotive regulations for car lighting, door retention, brake hoses, daytime running-light glare, and side impact protection
- Screening and bag matching for checked bags at airports
- Training requirements for operators of multitrailer trucks

Environmental Protection Agency

- National emission standards for hazardous air pollutants from plywood and composite wood products
- National emission standards for hazardous air pollutants from reciprocating internal combustion engines
- Groundwater and pesticide management plan
- National primary drinking water regulations for radon
- Regulation of acrylamide in grout

Consumer Product Safety Commission

- Flammability standard for upholstered furniture
- Rule to ban certain backyard play sets

Federal Communications Commission

- Signal carriage requirements for satellite broadcasters

Department of Housing and Urban Development

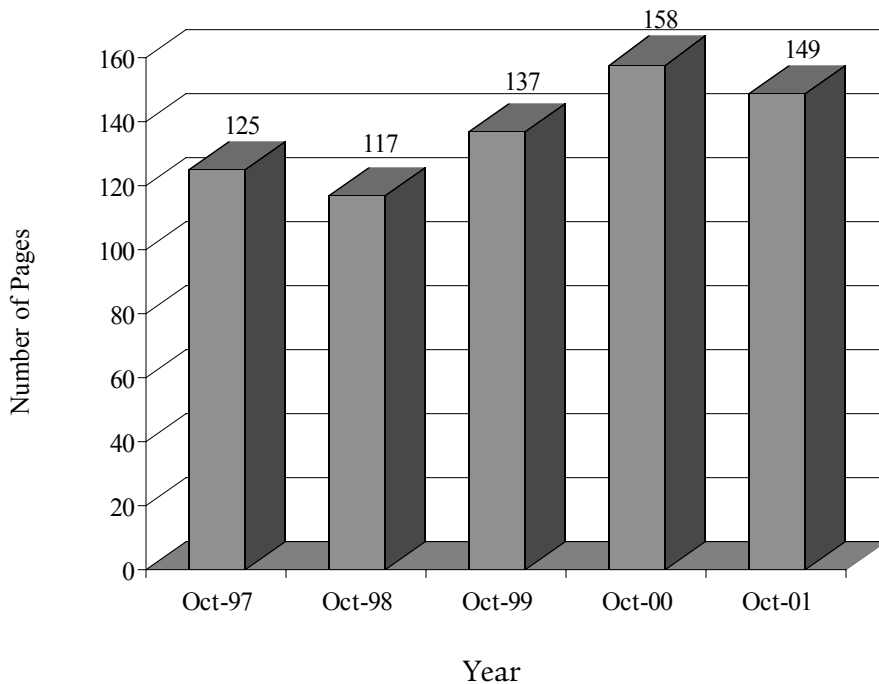
- Revision of manufactured home construction and safety standards to revise location of smoke alarms

High-Cost, Off-Budget Rules in the Agenda Will Cost Billions of Dollars

A subset of the *Agenda's* 4,509 rules is considered "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, 149 new economically significant rules are under consideration by 20 departments and agencies at the prerule, proposed rule, final rule, long-term, and recently completed stages (that number is a decrease of 5 percent from the 158 high-cost rules in

One hundred forty-nine new economically significant rules will cost more than \$100 million.

Figure 11
"Economically Significant" Rules in the Agenda Pipeline, 1997–2001



Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, 1997–2001.

Nine hundred ninety-six rules are anticipated to have significant economic impact on small businesses.

2000). The high-cost rules are scattered among the 4,509 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 \$14.9 billion (149 rules multiplied by \$100 million).

A breakdown of the \$14.9 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 \$14.9 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 1997–2001. The 149 major rules in 2001 represent a 19 percent increase since 1997. (For breakdowns of economically significant rules by agency and category for recent years, see Appendix: Historical Tables, Part E.)

Moreover, 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."²²

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 2001, 4,360 federal rules were not considered "economically significant" by the government (4,509 total rules minus the 149 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.

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."²³

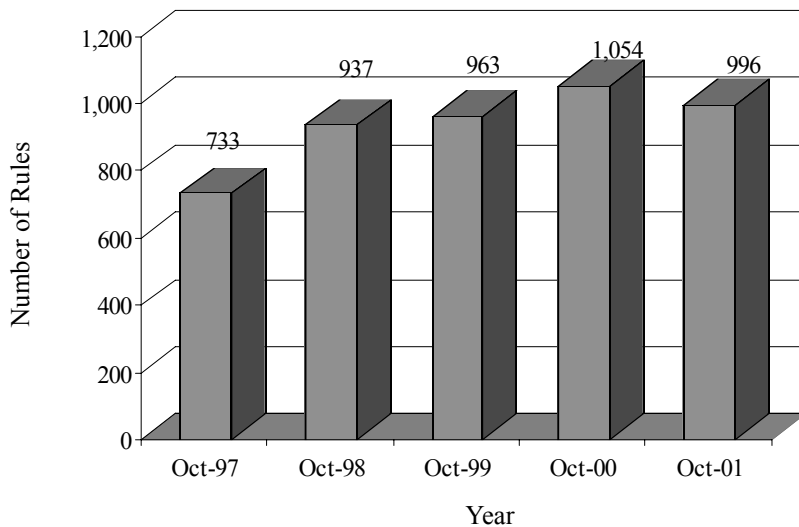
As Figure 12 shows, 996 rules are anticipated to have significant economic impact on small businesses, according to the 2001 *Agenda*. That is down 5 percent from 1,054 such rules in 2000. But, from 1997 to 2001, the number of rules impacting small businesses rose 35.9 percent, from 733 to 996.

Table 6 breaks out the October 2001 *Agenda*'s 996 rules impacting small business by department, agency, and commission.

The Department of Transportation and the Environmental Protection Agency account, respectively, for 244 and 185 of the 996 rules that affect small business—far outstripping other agencies' rules in small business impacts. The runners up are the Federal Communications Commission with 117 rules affecting small business, the Department of Health and Human Services with 108, and the Department of Commerce with 89. Those five agencies together account for 743, or 74 percent, of the total number of rules that will affect small businesses. (For the numbers of rules impacting small business broken down by department and agency for October *Agendas* since 1993, 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 996 small business rules in 2001 comprise 22.1 percent of the total of 4,509. Although this is a tiny drop from 2000's 22.4 percent, only 16.1 percent of rules in 1996 impacted small businesses.

Figure 12
Rules That Impact Small Business



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

Table 6
Agenda Entries Impacting Small Business by Department, Agency, and Commission, October 2001

	Total Rules	Number Impacting Small Business			Percentage Impacting Small Business
		RFA Required	RFA Not Required	Total	
Dept. of Agriculture	312	29	27	56	17.9
Dept. of Commerce	342	51	38	89	26.0
Dept. of Defense	93	3	5	8	8.6
Dept. of Education	8			0	0.0
Dept. of Energy	61	1		1	1.6
Dept. of Health & Human Services	277	57	51	108	39.0
Dept. of Housing & Urban Development	89		3	3	3.4
Dept. of the Interior	423	16	4	20	4.7
Dept. of Justice	229	6	9	15	6.6
Dept. of Labor	141	19	7	26	18.4
Dept. of State	32		3	3	9.4
Dept. of Transportation	511	22	222	244	47.7
Dept. of the Treasury	458	5	22	27	5.9
Dept. of Veterans Affairs	164		1	1	0.6
Agency for International Development	6		1	1	16.7
Architectural and Transportation Barriers Compliance Board	5	1		1	20.0
Commission on Civil Rights	1			0	0.0
Corporation for National & Community Service	9			0	0.0
Environmental Protection Agency	416	13	172	185	44.5
Federal Emergency Management Agency	30	1		1	3.3
General Services Administration	35	1		1	2.9
National Aeronautics & Space Administration	17			0	0.0
National Archives & Records Administration	19			0	0.0
Institute of Museum Services	5			0	0.0
National Endowment for the Arts	5		2	2	40.0
Equal Employment Opportunity Commission	3			0	0.0
National Endowment for the Humanities	8			0	0.0
National Science Foundation	3			0	0.0

cont'd

Table 6 *continued*

	Total Rules	Number Impacting Small Business			Percentage Impacting Small Business
		RFA Required	RFA Not Required	Total	
Office of Federal Housing Enterprise Oversight	9			0	0.0
Office of Government Ethics	11			0	0.0
Office of Management & Budget	5			0	0.0
Office of Personnel Management	91			0	0.0
Peace Corps	9			0	0.0
Pension Benefit Guaranty Corporation	11			0	0.0
Railroad Retirement Board	13			0	0.0
Selective Service System	1			0	0.0
Small Business Administration	37	7	14	21	56.8
Social Security Administration	85			0	0.0
Tennessee Valley Authority	3			0	0.0
Federal Acquisition Regulation	48	9		9	18.8
Commodity Futures Trading Commission	30			0	0.0
Consumer Product Safety Commission	21			0	0.0
Farm Credit Administration	17			0	0.0
Farm Credit System Insurance Corporation	1			0	0.0
Federal Communications Commission	145	112	5	117	80.7
Federal Energy Regulatory Commission	8			0	0.0
Federal Housing Finance Board	12			0	0.0
Federal Maritime Commission	7		6	6	85.7
Federal Reserve System	32	9	1	10	31.3
National Credit Union Administration	22			0	0.0
Nuclear Regulatory Commission	42	5		5	11.9
Securities and Exchange Commission	80	21	5	26	32.5
Federal Trade Commission	13		9	9	69.2
Federal Deposit Insurance Corporation	22			0	0.0
National Indian Gaming Commission	15			0	0.0
Surface Transportation Board	4			0	0.0
Federal Mediation and Conciliation Service	3		1	1	33.3
Udall Inst. for Environmental Conflict Res.	3			0	0.0
Court Services/Offender Supervision, D.C.	5			0	0.0
Presidio Trust	2			0	0.0
Total	4,509	388	608	996	22.1

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, 2001. Note: RFA = regulatory flexibility analysis.

Agencies report that 373 of the 4,509 rules in the October 2001 Agenda will have effects on local governments.

Federal Regulations Impacting State and Local Governments

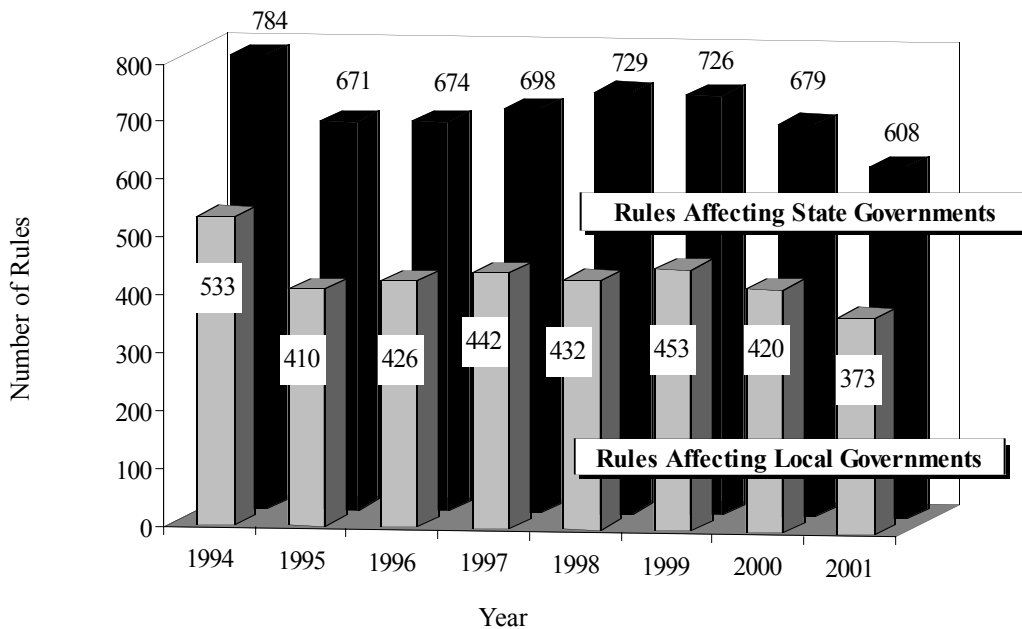
Ten Thousand Commandments tracks primarily regulations imposed on the private sector. However, state and local officials' realization during the 1990s that their own priorities were being overridden by federal mandates generated interest in regulatory reform. A result was the passage of the Unfunded Mandates Act in 1995 to provide some relief.

As Figure 13 shows, agencies report that 373 of the 4,509 rules in the October 2001 *Agenda* will have effects on local governments, compared to 420 in 2000.²⁴ Over the seven years since the passage of the

Unfunded Mandates Act, the number of rules impacting local governments has fallen from 533 to 373, a drop of 30 percent.

Figure 13 also shows that the total number of regulatory actions impacting state-level governments dropped from 679 to 608 over the past year. Since passage of the unfunded mandates legislation, the count has dropped from 784 to 608, a decline of 22 percent. Unfunded mandates-style legislation, if applied to private-sector regulations—such as those affecting small businesses (Figure 12)—may produce declines in the number of rules as well. (For breakdowns of the numbers of rules impacting state and local governments by department and agency over the past several years' October *Agendas*, see Appendix: Historical Tables, Part G.)

Figure 13
Rules That Impact State and Local Governments, 1994–2001



Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations, 1994–2001*.
 Note: Many of these rules impact both local and state governments, and most of these rules affect the private sector as well.

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 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, perhaps most important, 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 to reject the rule. But despite the issuance of thousands of

rules since the CRA’s passage—among them many dozens of major ones—only one has been rejected, the Labor Department’s ergonomics rule in early 2001.

As can be seen in Table 7, according to the GAO database, the number of final major rules issued by agencies remained flat over the past year; 72 final rules were issued in 2001 compared with 73 in 2000. The Departments of Health and Human Services, Agriculture, and the Interior issued the most major rules in 2001.

Regulation and the EPA

This report has taken a broad look at the extent of government regulation, but 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

CRA gives Congress a chance to review a rule for 60 legislative days, and, if desired, to pass a resolution of disapproval to reject the rule. But only one has been rejected, the Labor Department’s ergonomics rule in early 2001.

Table 7
GAO Reports on Major Rules, 1997–2001

	1997	1998	1999	2000	2001
Environmental Protection Agency	6	9	5	5	4
Department of the Interior	4	5	4	10	8
Federal Communications Commission	13	17	5	7	2
Dept. of Health and Human Services	6	18	7	13	19
Department of Energy	2	0	0	3	3
Securities and Exchange Commission	8	5	5	6	2
Department of Agriculture	7	4	5	12	9
Nuclear Regulatory Commission	1	2	1	2	1
Department of Transportation	2	1	4	3	3
Department of Justice	2	1	0	0	2
Federal Reserve	1	0	0	1	0
Social Security Administration	2	0	3	1	1
Department of Housing and Urban Dev.	2	0	1	2	1
Department of Labor	2	2	0	5	3
Department of Commerce	1	1	2	0	1
Pension Benefit Guaranty Corp.	0	1	0	0	0
Department of the Treasury	1	2	0	0	0
Department of Defense	0	1	1	0	2
Department of Education	0	0	1	0	0
National Credit Union Administration	0	0	1	0	0
Emergency Steel Guarantee Loan Board	0	0	1	0	0
Small Business Administration	0	1	0	1	1
Federal Trade Commission	0	0	0	1	0
Achitectural and Transportation					
Barriers Compliance Board	0	0	0	0	1
Federal Emergency Management Agency	0	0	0	0	3
Federal Acquisition Regulation	0	0	0	0	1
Veterans Administration	0	0	0	0	3
Office of Management and Budget	0	0	0	0	1
Office of Personnel Management	0	0	0	1	0
Various agencies; HIPAA implementation	0	0	0	0	1
Total	60	70	46	73	72

Source: Compiled from GAO data.

Note: HIPAA = Health Insurance Portability and Accountability Act.

The EPA alone accounts for 20 percent of the \$20.3 billion expected to be spent by all the regulatory agencies.

to enforce regulations. The EPA alone, which is expected to spend \$4.2 billion to enforce regulation during FY02, accounts for 20 percent of the \$20.3 billion (in current dollars) expected to be spent by all the regulatory agencies.²⁵ But total numbers of regulations from the EPA have fallen lately.

Total EPA Rules and Their Impacts on Small Business

Of the 4,509 rules in the *Agenda* pipeline in 2001, 416, or 9.2 percent, were in the works at the EPA (see Table 3). Nonetheless, the total

number of rules from EPA is lower than it was five years ago when the count was 430 (Figure 14). The drop over the past year from 449 to 416 (a 7.3 percent decline) under President Bush is particularly notable. The agency's total number of economically significant rules in the *Agenda* fell to 25 (Table 5) from 31 the previous year. The EPA's major rules finalized, as compiled from GAO data and shown in Table 7, fell to four. (For data on the major rules of the EPA and other agencies, see Appendix: Historical Tables, Part E.)

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 among the costliest ever proposed. The lesson, as noted, is that, although fewer rules are a welcome development, fewer rules 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 1997 that category of rules has risen from 163 to 185, an increase of 13.5 percent. Those rules had been trending up notably over the past few years, until falling under Bush from 205 to 185. In addition, the proportion of all EPA rules that affects small business is higher than it has been in the past. As can be gathered from Figure 14, of the EPA's 416 rules, 185, or 44 percent, affect small business. In 1997, 38 percent of the EPA's rules had such impacts.

Impacts of EPA Rules on State and Local Governments

Figure 13 shows that, overall, federal agency rules impacting state and local governments stand at a far lower level than they did in 1994

(before the Unfunded Mandates Act). Figure 15 shows that the number of EPA rules impacting 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 Bush, EPA rules affecting state governments fell 21 percent, from 228 to 180.

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

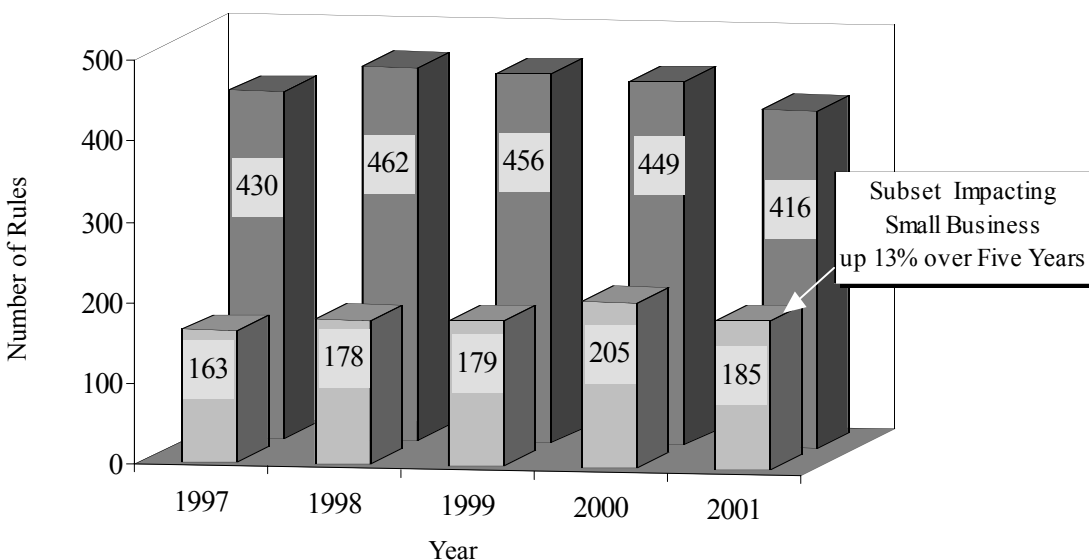
Ending Regulation without Representation: Improving Disclosure and Ensuring Congressional Accountability for All Regulations

Steps toward Improving Regulatory Disclosure

Federal regulatory compliance costs total hundreds of billions of dollars every year, as

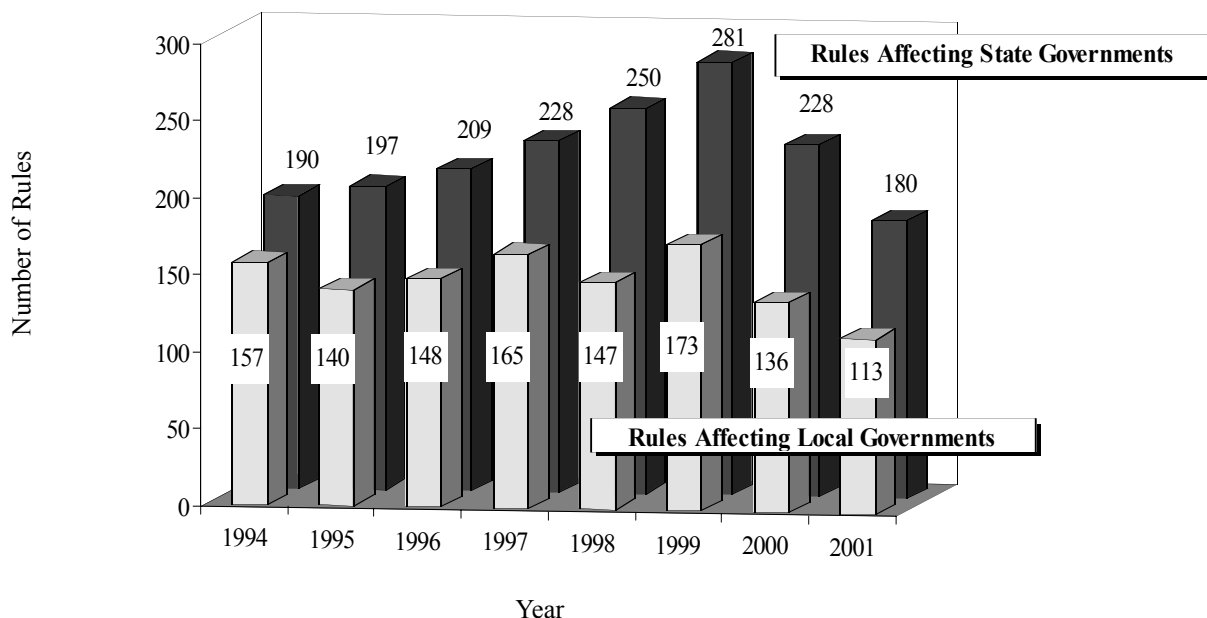
The proportion of all EPA rules that affects small business is higher than it has been in the past.

Figure 14
Number of EPA Rules, 1997–2001



Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations, 1997–2001*.

Figure 15
EPA Rules Impacting State and Local Governments, 1994–2001.



Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, 1997–2001.

Today, agencies need not specify whether any or all of their economically significant rules cost only \$100 million, or something far beyond.

the earlier descriptions of the OMB and Hopkins studies showed. Although it is certainly true that some regulations may produce overall benefits that exceed overall costs, costs and benefits are known for relatively few regulations. Without any official regulatory accounting, it is difficult to know whether society wins or loses, 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 off-budget “regulation without representation” altogether.

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 better incremental step would be to require the publication of a sum-

mary of already available, but scattered, data. That simple step alone would help to transform today’s regulatory culture from one of nondisclosure and bureaucratic brushoff to one of maximum regulatory disclosure.

As noted, 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 alter-

Table 8
Proposed 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		

native 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 easily taken. Today, to learn about regulatory trends and accumulate information on rules—such as numbers produced by each agency, their costs and benefits (if available), and so on—interested citizens must comb through the *Agenda’s* 1,000-plus pages of small, multicolumn print.

Without any official regulatory accounting, it is difficult to know whether society wins or loses.

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 internal agency procedures alone
- Rollover: number of rules new to the *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

Congress shirks its duty to make the tough calls, delegates too much of its lawmaking power to nonelected agencies, and then fails to require that they guarantee net benefits.

Useful regulatory information is often available but too tedious to accumulate.

There is no reason for the *Agenda* to be such an unfriendly document. 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 accompanying box. Information could be added to the report as deemed necessary—for instance, success or failure of any special initiative, such as the Clinton administration’s reinventing government effort. Providing five-year historical data would tremendously enhance the usefulness of the *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 body of elected representatives, shirks its duty to make the tough calls, delegates too much of its lawmaking power to nonelected agencies, and then fails to require that they guarantee net benefits. Thus, agencies can hardly be faulted for not guaranteeing optimal regulation or for not ensuring that only “good” rules get through. Agencies face overwhelming incentives to expand their turf by regulating even in the absence of demonstrated need, since the only measure of agency productivity—other than growth in its budget and number of employ-

ees—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 into law 108 bills in 2001. But, as noted, unaccountable regulatory agencies issued 4,132 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 hoped-for budget surpluses. If Congress’s alternatives are to spend or to issue new regulations, a balanced-budget constraint invites Congress to regulate instead of increase government spending on a program to accomplish its ends. For example, suppose Congress wanted to create a job-training program or otherwise fulfill some promise to the voters. Funding 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. On the other hand, Congress could simply pass a law requiring Fortune 500 companies to fund job training. That law, of course, would be carried out through new regulations issued by the Labor Department. The latter option would not add significantly to federal spending but would nonetheless let Congress take credit for good deeds.

By regulating instead of spending, government can expand almost indefinitely without

explicitly taxing anyone a single penny. Making Congress accountable for regulation in the same manner it is accountable for ordinary government spending is the only way to head off this sort of manipulation.

Requiring explicit approval of all proposed regulations would ensure that Congress bore direct responsibility 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, 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.

Requiring explicit approval of all proposed regulations would ensure that Congress bore direct responsibility for every dollar of new regulatory costs.

Appendix: Historical Tables

Part A: Federal Register Page History, 1936–2001

Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count	Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count
1936	2,620	n/a	2,620	1969	20,466	n/a	20,466
1937	3,450	n/a	3,450	1970	20,036	n/a	20,036
1938	3,194	n/a	3,194	1971	25,447	n/a	25,447
1939	5,007	n/a	5,007	1972	28,924	n/a	28,924
1940	5,307	n/a	5,307	1973	35,592	n/a	35,592
1941	6,877	n/a	6,877	1974	45,422	n/a	45,422
1942	11,113	n/a	11,134	1975	60,221	n/a	60,221
1943	17,553	n/a	17,553	1976	57,072	6,567	50,505
1944	15,194	n/a	15,194	1977	65,603	7,816	57,787
1945	15,508	n/a	15,508	1978	61,261	5,565	55,696
1946	14,736	n/a	14,736	1979	77,498	6,307	71,191
1947	8,902	n/a	8,902	1980	87,012	13,754	73,258
1948	9,608	n/a	9,608	1981	63,554	5,818	57,736
1949	7,952	n/a	7,952	1982	58,494	5,390	53,104
1950	9,562	n/a	9,562	1983	57,704	4,686	53,018
1951	13,175	n/a	13,175	1984	50,998	2,355	48,643
1952	11,896	n/a	11,896	1985	53,480	2,978	50,502
1953	8,912	n/a	8,912	1986	47,418	2,606	44,812
1954	9,910	n/a	9,910	1987	49,654	2,621	47,033
1955	10,196	n/a	10,196	1988	53,376	2,760	50,616
1956	10,528	n/a	10,528	1989	53,842	3,341	50,501
1957	11,156	n/a	11,156	1990	53,620	3,825	49,795
1958	10,579	n/a	10,579	1991	67,716	9,743	57,973
1959	11,116	n/a	11,116	1992	62,928	5,925	57,003
1960	14,479	n/a	14,479	1993	69,688	8,522	61,166
1961	12,792	n/a	12,792	1994	68,108	3,194	64,914
1962	13,226	n/a	13,226	1995	67,518	4,873	62,645
1963	14,842	n/a	14,842	1996	69,368	4,777	64,591
1964	19,304	n/a	19,304	1997	68,530	3,981	64,549
1965	17,206	n/a	17,206	1998	72,356	3,785	68,571
1966	16,850	n/a	16,850	1999	73,880	2,719	71,161
1967	21,088	n/a	21,088	2000	83,294	9,036	74,258
1968	20,072	n/a	20,072	2001	67,702	3,271	64,431

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 were published only to a limited extent before the 1970s.
n/a = not available.

Part B: Number of Documents Published in *Federal Register*, 1976–2001

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

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

Note: “Other” documents are presidential documents, agency notices, and corrections.

Part C: Agenda Rules History, 1983–2001

		Total Number of Rules under Consideration						
		1980s		1990s		2000s		
1983	April	2,863	1990	April	4,332	2000	October	4,699
	October	4,032		October	4,470			
1984	April	4,114	1991	April	4,675	2001	October	4,509
	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, 1996–2000

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

continued

Part D *continued*

Department	Oct-00	Oct-99	Oct-98	Oct-97	Oct-96
Commodity Futures Trading Commission	21	19	12	9	13
Consumer Product Safety Commission	20	17	15	14	15
Farm Credit Administration	17	19	15	17	21
Farm Credit System Insurance Corporation	3	3	3	4	4
Federal Communications Commission	137	128	121	98	104
Federal Energy Regulatory Commission	18	20	12	10	14
Federal Housing Finance Board	12	18	17	17	18
Federal Maritime Commission	9	9	6	3	7
Federal Reserve System	33	22	30	36	40
Federal Trade Commission	14	16	16	19	17
National Credit Union Administration	16	26	14	14	12
Federal Deposit Insurance Corporation	26	25	26	31	34
National Indian Gaming Commission	14	14	17	16	6
National Labor Relations Board	0	0	0	3	5
Nuclear Regulatory Commission	55	57	63	62	55
Office of Special Counsel	3	2	1	0	0
Overseas Private Investment Corporation	0	0	2	0	0
Securities and Exchange Commission	77	80	83	79	102
Surface Transportation Board	3	3	8	13	13
Federal Mediation and Conciliation Service	2	1	1	1	0
Presidio Trust	3	3	0	0	0
Udall Institute for Environmental Conflict Res.	3	3	0	0	0
Total	4,699	4,538	4,560	4,407	4,679

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, October 2001.

Part E: Major Rules by Agency and Category, 1996-2000

	Prerule	Proposed	Final	Long-term	Completed	Total
			<i>October 2000</i>			
Dept. of Agriculture	0	5	9	9	1	24
Dept. of Commerce	0	0	3	0	1	4
Dept. of Energy	0	2	2	5	1	10
Dept. of Health & Human Services	0	4	7	10	6	27
Dept. of Housing & Urban Development	0	0	2	0	0	2
Dept. of Transportation	0	3	1	2	2	8
Dept. of Justice	0	1	0	0	0	1
Dept. of the Interior	0	0	1	1	1	3
Dept. of Labor	3	6	5	8	0	22
Architectural and Transportation Barriers Compliance Board	0	0	3	0	0	3
Environmental Protection Agency	0	15	9	3	4	31
Federal Emergency Management Agency	0	0	0	1	0	1
Office of Personnel Management	0	0	1	0	0	1
Small Business Administration	1	1	0	0	0	2
Social Security Administration	0	1	0	0	0	1
Federal Acquisition Regulation	0	1	0	0	0	1
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	1	0	9	2	12
Office of Federal Housing Enterprise Oversight	0	0	0	1	0	1
Federal Energy Regulatory Commission	0	0	0	1	0	1
Nuclear Regulatory Commission	0	0	0	0	2	2
Total	4	41	43	50	20	158
			<i>October 1999</i>			
Dept. of Agriculture	0	6	6	5	1	18
Dept. of Commerce	0	1	0	1	0	2
Dept. of Defense	0	0	0	0	1	1
Dept. of Energy	1	3	0	5	0	9
Dept. of Health & Human Services	0	8	6	3	4	21
Dept. of Housing & Urban Development	0	1	1	0	1	3
Dept. of the Interior	0	0	0	1	1	2
Dept. of Labor	2	5	3	8	0	18
Dept. of Transportation	0	3	2	1	4	10
Architectural and Transportation Barriers Compliance Board	0	3	1	0	0	4
Environmental Protection Agency	0	11	9	6	2	28
Small Business Administration	0	1	0	0	1	2
Social Security Administration	0	1	0	0	2	3
Federal Acquisition Regulation	0	0	0	0	2	2
Consumer Product Safety Commission	0	1	0	0	0	1

continued

	Prerule	Proposed	Final	Long-term	Completed	Total
Federal Communications Commission	0	0	0	9	1	10
Office of Federal Housing Enterprise Oversight	0	1	0	0	0	1
Nuclear Regulatory Commission	0	1	0	0	1	2
Total	3	46	28	39	21	137
<i>October 1998</i>						
Dept. of Agriculture	0	7	7	1	2	17
Dept. of Energy	2	2	0	5	0	9
Dept. of Health & Human Services	0	2	1	6	0	9
Dept. of Housing & Urban Development	0	0	2	0	0	2
Dept. of the Interior	0	0	0	1	1	2
Dept. of Labor	1	8	3	3	0	15
Dept. of Transportation	0	4	1	0	1	6
Architectural and Transportation Barriers Compliance Board	0	0	1	0	0	1
Environmental Protection Agency	0	14	13	9	2	38
Small Business Administration	0	5	1	0	1	7
Social Security Administration	0	0	0	0	1	1
Federal Acquisition Regulation	0	0	0	1	0	1
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	0	7	0	7
Nuclear Regulatory Commission	0	0	0	0	1	1
Total	3	43	29	33	9	117
<i>October 1997</i>						
Dept. of Agriculture	0	5	4	3	3	15
Dept. of Commerce	0	0	1	0	0	1
Dept. of Energy	1	2	2	5	3	13
Dept. of Health & Human Services	0	1	1	0	3	5
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	0	0	1	0	1
Dept. of Justice	0	1	0	0	0	1
Dept. of Labor	2	10	1	3	0	16
Dept. of Transportation	0	5	3	0	0	8
Environmental Protection Agency	1	9	11	12	5	38
Small Business Administration	0	2	1	0	2	5
Social Security Administration	0	0	1	0	0	1
Federal Acquisition Regulation	0	0	0	2	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	0	7	2	9
Federal Housing Finance Board	0	0	0	0	3	3
Federal Reserve System	0	0	1	0	0	1
Nuclear Regulatory Commission	0	1	0	0	1	2
Total	4	37	29	33	22	125

October 1996

Dept. of Agriculture	0	5	7	3	10	25
Dept. of Commerce	0	0	0	0	1	1
Dept. of Energy	1	2	3	7	0	13
Dept. of Health & Human Services	0	2	2	0	2	6
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	1	0	0	1	2
Dept. of Labor	1	8	1	1	0	11
Dept. of Transportation	2	2	1	0	1	6
Dept. of Veterans Affairs	0	1	0	0	0	1
Environmental Protection Agency	3	13	14	10	6	46
Federal Emergency Management Agency	0	0	0	1	0	1
Small Business Administration	0	4	0	0	0	4
Social Security Administration	0	0	2	0	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Acquisition Regulation	0	0	0	0	1	1
Federal Communications Commission	0	0	0	8	2	10
Federal Energy Regulatory Commission	0	0	0	0	1	1
Federal Housing Finance Board	0	2	0	0	0	2
Federal Reserve System	0	0	1	0	1	2
Nuclear Regulatory Commission	0	1	0	0	0	1
Total	7	42	34	30	26	139

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

Part F: Rules Impacting Small Business, 1993–2000

	1993	1994	1995	1996	1997	1998	1999	2000
Dept. of Agriculture	62	54	54	56	58	63	49	47
Dept. of Commerce	33	46	43	46	29	52	88	98
Dept. of Defense	20	22	27	22	15	21	15	7
Dept. of Education	3	0	0	1	1	0	0	0
Dept. of Energy	9	4	2	2	2	0	0	1
Dept. of Health & Human Services	73	63	59	89	100	88	75	107
Dept. of Housing & Urban Development	34	33	17	9	7	1	1	0
Dept. of the Interior	9	26	21	17	28	29	33	18
Dept. of Justice	16	17	23	27	26	10	14	14
Dept. of Labor	30	40	33	51	39	41	38	40
Dept. of State	1	1	0	2	1	0	0	2
Dept. of Transportation	30	14	24	31	44	208	246	266
Dept. of the Treasury	70	69	59	52	50	60	15	31
Dept. of Veterans Affairs	3	3	3	3	7	6	6	3
Advisory Council on Historic Preservation								0
Agency for International Development	0	0	1	0	0	0	0	0
Architectural and Transportation Barriers Compliance Board	0	0	0	0	0	3	2	2
Corporation for National & Community Service	0	1	0	0	0	0	0	0
Environmental Protection Agency	85	123	140	152	163	178	179	205
Federal Emergency Management Agency	1	1	3	1	0	0	0	1
General Services Administration	6	7	5	6	3	2	2	1
National Aeronautics & Space Agency	1	1	1	1	0	1	0	0
National Archives & Records Administration	1	1	1	1	1	1	0	0
Equal Employment Opportunity Commission	0	0	0	0	1	2	0	0
National Endowment for the Humanities	0	0	0	0	1	0	0	0
National Science Foundation	0	0	0	0	0	0	0	0
Office of Management & Budget	5	3	4	2	1	1	2	1
Railroad Retirement Board	1	1	2	1	1	0	0	0
Small Business Administration	60	44	62	17	13	20	28	24
Social Security Administration	0	0	4	1	0	0	2	0
U.S. Information Agency	1	0	0	0	0	0	0	0
Federal Acquisition Regulation	7	9	16	20	15	11	16	13
Commodity Futures Trading Commission	1	0	0	0	0	1	0	0
Consumer Product Safety Commission	3	2	1	1	0	0	0	0
Federal Communications Commission	47	47	52	75	70	82	91	105
Federal Energy Regulatory Commission	0	0	1	0	0	0	1	0
Federal Housing Finance Board	1	1	1	0	0	1	0	0
Federal Maritime Commission	0	0	0	0	0	5	4	7
Federal Reserve System	10	9	6	4	2	5	2	8
Federal Trade Commission	2	2	5	7	11	10	10	9
Federal Mediation and Conciliation Service								1
Interstate Commerce Commission	1	0	0	0	0	0	0	0
National Credit Union Administration	2	1	2	1	1	0	0	0
Nuclear Regulatory Commission	9	8	5	8	9	8	5	3
Resolution Trust Corporation	0	1	0	0	0	0	0	0
Securities and Exchange Commission	29	32	34	48	34	27	39	40
Total	666	686	711	754	733	937	963	1,054

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

Part G: Federal Rules Impacting Lower-Level Governments, 1997–2001

	Oct-01		Oct-00		Oct-99		Oct-98		Oct-97	
	State	Local	State	Local	State	Local	State	Local	State	Local
Dept. of Agriculture	51	43	51	43	67	58	65	54	70	58
Dept. of Commerce	30	11	36	13	21	10	18	9	16	9
Dept. of Defense	3	3	2	2	2	1	4	3	4	3
Dept. of Education	0	0	0	0	0	0	0	0	3	3
Dept. of Energy	10	10	15	15	13	12	15	14	18	18
Dept. of Health & Human Services	59	21	76	26	71	23	88	23	82	30
Dept. of Housing & Urban Development	10	14	9	19	8	13	25	28	24	29
Dept. of the Interior	66	29	54	21	55	21	61	20	78	11
Dept. of Justice	28	20	25	20	31	24	28	22	26	20
Dept. of Labor	33	23	31	24	34	25	32	24	29	15
Dept. of State	2	2	2	1	1	1	1	1	1	1
Dept. of Transportation	41	23	49	31	50	33	47	29	34	22
Dept. of the Treasury	16	8	16	8	11	7	16	12	22	16
Dept. of Veterans Affairs	6	1	6	1	9	3	7	2	5	0
Advisory Council on Historic Preservation	0	0	1	0	1	0	1	0	1	0
Agency for International Development	0	0	1	1	0	0	0	0	0	0
Architectural and Transportation Barriers Compliance Board	3	3	4	4	4	4	2	2	1	1
Environmental Protection Agency	180	113	228	136	281	173	250	147	228	165
Federal Emergency Management Agency	7	8	5	6	5	4	5	3	1	3
General Services Administration	6	1	4	1	2	1	5	2	5	4
National Aeronautics & Space Agency	0	0	1	1	0	0	2	2	1	2
National Archives & Records Administration	5	5	5	5	4	4	2	2	2	2
National Endowment for the Arts	1	1	1	1	1	1	1	1	2	2
Equal Employment Opportunity Commission	1	1	3	3	3	3	4	4	2	2
National Endowment for the Humanities	1	1	1	1	0	0	0	0	1	0
National Science Foundation	1	0	1	1	0	0	0	0	1	1
Office of Management & Budget	0	0	0	0	0	1	1	2	4	4
Railroad Retirement Board	0	0	1	0	1	0	1	0	1	0
Small Business Administration	0	0	1	1	0	0	2	0	1	0
Social Security Administration	6	3	7	3	11	3	9	3	3	0
Tennessee Valley Authority	0	0	1	1	0	0	0	0	0	0
U.S. Information Agency	0	0	0	0	0	0	0	0	2	2
Federal Communications Commission	25	18	27	20	30	22	30	21	21	17
Federal Energy Regulatory Commission	2	2	2	2	2	2	0	0	0	0
Federal Reserve System	0	0	1	0	1	0	1	0	3	1
Federal Trade Commission	2	0	2	0	2	0	2	0	2	0
National Indian Gaming Commission	1	0	1	0	1	0	1	0	2	0
Nuclear Regulatory Commission	1	1	2	2	1	1	1	1	1	1
Securities and Exchange Commission	3	0	1	1	2	2	1	0	1	0
Corporation for National and Community Service	6	6	4	4	1	1	1	1	0	0
Institute of Museum and Library Services	2	2	2	2	0	0	0	0	0	0
Total	608	373	679	420	726	453	729	432	698	442

Source: Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, 1997–2001.

Notes

1. Office of Management and Budget, Office of Information and Regulatory Affairs, *Making Sense of Regulation: 2001 Report to Congress on the Costs and Benefits of Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, 2001, Table 2, p. 11, www.whitehouse.gov/omb/inforeg/costbenefitreport.pdf.
2. *Budget of the United States Government, Fiscal Year 2000*, "Regulation: Costs and Benefits," p. 280.
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 US 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. Here that growth trend is applied to the Crain and Hopkins 2000 figure to arrive at a 2001 estimate.
6. 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.
7. Crain and Hopkins, p. 5.
8. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2003–2012*, www.cbo.gov/showdoc.cfm?index=3277&sequence=2.
9. Figures for 2001 outlays and surplus are contained in Congressional Budget Office, *The Budget and Economic Outlook*, January 2002, www.cbo.gov/showdoc.cfm?index=3277&sequence=0&from=1. Outlays and surplus for 2000 are contained in the January 2001 edition, www.cbo.gov/showdoc.cfm?index=2727&sequence=0&from=1.
10. Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2001*, Table. 459, "Federal Receipts by Source: 1990 to 2001," p. 305, www.census.gov/prod/2002pubs/01statab/fedgov.pdf.
11. *Ibid.*
12. *Ibid.*, Table 758, "Corporate Profits, Taxes, and Dividends: 1990 to 2000," p. 501, www.census.gov/prod/2002pubs/01statab/business.pdf.
13. GDP figures for Canada and Mexico are from *ibid.*, Table 1340, "Gross Domestic Product (GDP) by Country: 1995 to 2000," p. 841, www.census.gov/prod/2002pubs/01statab/intlstat.pdf.
14. *The Budget and Economic Outlook*, January 2002, Table E-1, "CBO's Year-by-Year Forecast and Projections for Calendar Years 2002 through 2012," www.cbo.gov/showdoc.cfm?index=3277&sequence=13.
15. "New Study Profiles Total Tax Burden of Median American Family," Tax Foundation press release, March 9, 2000, www.taxfoundation.org/prmedianfamily.html.
16. Hopkins, "Profiles of Regulatory Costs," Appendix A, Table A-2. Since 1998 tax figures are the latest available, Hopkins's 1995 dollars are adjusted by the change in the consumer price index (CPI) between 1995 and 1998.
17. Melinda Warren, Weidenbaum Center on the Economy, Government, and Public Policy, Washington University, St. Louis, Personal communication, summer 2001. Original 1996 constant dollars used by the Weidenbaum Center are in this report adjusted by the change in CPI between 1996 and 2000, computed from U.S. Census Bureau, *Statistical Abstract of the United States: 2001*, Table 692, "Consumer Price Indexes (CPI-U), by Major Groups: 1980 to 2000," p. 453.
18. *Ibid.* This figure is also inflated by the change in CPI.
19. See, for example, Cindy Skrzycki, "Midnight Regulations' Swell Register," *Washington Post*, January 23, 2001, p. E1.
20. Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, October 2001, reprinted from *Federal Register* 66, no. 232 (December 3, 2001). Cited hereinafter as *Agenda*.
21. Though the *Agenda* is published twice a year, this document tracks each year's October edition.
22. *Agenda*, p. 61128.
23. *Ibid.*, p. 62775.
24. The legislation and executive orders by which agencies are directed to assess impacts on state and local governments are described in *ibid.*, p. 62799.
25. Warren.

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