

2011

Ten Thousand

Commandments



An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews Jr.



Competitive Enterprise Institute

Ten Thousand Commandments

An Annual Snapshot of the Federal Regulatory State

2011 Edition

by Clyde Wayne Crews Jr.

Executive Summary

President Barack Obama's new federal budget proposal for fiscal year (FY) 2012 seeks \$3.729 trillion in discretionary, entitlement, and interest spending.¹ In the previous fiscal year, the president had proposed outlays of \$3.83 trillion. As of January 2011, the Congressional Budget Office (CBO) now projects FY 2011 spending will end up at \$3.708 trillion.²

For reference, President George W. Bush proposed not only the first-ever \$3-trillion U.S. budget, but also the first \$2-trillion federal budget—in 2002, only nine years ago.³

The result: Thanks to the bailouts and other amplified spending, CBO projects a FY 2011 deficit of a previously unthinkable \$1.48 trillion, greater than FY 2010's actual deficit of \$1.294 trillion.⁴ With the unveiling of the 2012 budget, President Obama projects an even larger FY 2011 deficit than CBO does: \$1.645 trillion. This figure will be the largest deficit since World War II, at 11 percent of the entire U.S. economy.⁵

To be sure, many other countries' governments consume a greater share of their national output than the U.S. government does.⁶ However, in absolute terms, the U.S. government is the largest government on planet Earth, whether one's metric is revenues, expenditures, deficits, or accumulated debt.⁷

Regulation: A Hidden Tax

Those costs fully convey the federal government's on-budget scope, and they are sobering enough. Yet the government's reach extends well beyond the taxes that Washington collects and the deficit spending and borrowing now surging. Federal environmental, safety and health, and economic regulations cost hundreds of billions—perhaps trillions—of dollars every year over and above the costs of the official federal outlays that now dominate the policy debate.

Economics 101 explains how and why firms generally pass along to consumers the costs of some taxes. Likewise, some regulatory

In absolute terms, the U.S. government is the largest government on planet Earth.

Unchecked government outlays and deficit spending translate, in later years, into greater regulation as well. We are seeing that expansion happen now.

compliance costs that businesses face will find their way into the prices consumers pay. Precise regulatory costs can never be fully known, because, unlike taxes, they are unbudgeted and often indirect. But scattered government and private data exist on scores of regulations and on the agencies that issue them, as well as on regulatory costs and benefits. Compiling some of that information can make the regulatory state somewhat more comprehensible. That is one purpose of the annual *Ten Thousand Commandments* report, highlights of which appear next.

- An evaluation of the U.S. federal regulatory enterprise by economists Nicole V. Crain and W. Mark Crain finds annual regulatory compliance costs hit \$1.752 trillion in 2008.
- Given 2010's actual government spending or outlays of \$3.456 trillion, the regulatory "hidden tax" stands at an unprecedented 50.7 percent of the level of federal spending itself.
- The dramatic reality that regulations and deficits now *each* greatly exceed \$1 trillion a year is an unsettling new development for the United States. In 2008, regulatory costs were more than double that year's \$459 billion budget deficit. However, the deficit spending surge to more than \$1 trillion since 2009 has catapulted the deficit to a level approaching the costs of regulation.
- Government spending's relationship to government regulation bears scrutiny. Unchecked government outlays and deficit spending translate, in later years, into greater regulation as well. We are seeing that expansion happen now.
- Regulatory costs exceed all 2008 corporate pretax profits of \$1.463 trillion.
- Regulatory costs dwarf corporate income taxes of \$157 billion.
- Regulatory costs tower over the estimated 2010 individual income taxes of \$936 billion by 87 percent—nearly double the level.
- Regulatory costs of \$1.752 trillion absorb 11.9 percent of the U.S. gross domestic product (GDP), estimated at \$14.649 trillion in 2010.
- Combining regulatory costs with federal FY 2010 outlays of \$3.456 trillion reveals a federal government whose share of the entire economy now reaches 35.5 percent.
- The Weidenbaum Center at Washington University in St. Louis and the Regulatory Studies Center at George Washington University in Washington, D.C., jointly estimate that agencies spent \$55.4 billion (on budget) to administer and police the regulatory enterprise. Adding the \$1.752 trillion in off-budget compliance costs brings the total regulatory burden to \$1.8 trillion.
- The 2010 *Federal Register* stands at an all-time record-high 81,405 pages.
- *Federal Register* pages devoted specifically to final rules rose by 20 percent, from 20,782 in 2009 to 24,914.
- In 2010, agencies issued 3,573 final rules, compared with 3,503 in 2009.
- Notably, the number of proposed rules increased even more than the number of final rules, from 2,044 in 2009 to 2,439 in 2010, an increase of 19.3 percent.
- The annual outflow of roughly 4,000 final rules has meant that nearly 38,700 rules have been issued since 2001.
- While regulatory agencies issued 3,573 final rules in 2010, Congress passed and the president signed into law a comparatively few 217 bills. Considerable law-making power is delegated to unelected bureaucrats at agencies.
- According to the 2010 "Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions" in the *Federal Register*, which lists federal regulatory actions at various stages of implementation, 58 federal departments, agencies, and commissions have 4,225 regulations in play at various stages of implementation, an increase of 4.5 percent.
- Of the 4,225 regulations now in the pipeline, 224 are "economically significant" rules wielding at least \$100 million in economic impact. Assuming those rulemakings are primarily regulatory

(even if some are deregulatory) and cost only \$100 million rather than multiples of that figure, that number implies roughly \$22 billion yearly in future off-budget regulatory effects.

- “Economically significant” rules increased by 22 percent over 2009’s 184 rules. The count had increased by 2 percent between 2008 and 2009, following 13- and 14-percent increases in the prior two years.
- Of the 4,226 regulations now in the works, 845 affect small business, an 11.5-increase over 758 in 2009.
- High federal budgetary spending now likely implies higher future regulatory costs as well.
- The number of final “major rule” reports issued by agencies and reviewed by the Government Accountability Office (GAO) has surged. The 99 rules of 2010 represent the highest number since this tabulation began. Five years ago, there were 56 such reports.
- The five most active rule-producing agencies—the departments of the Treasury, Health and Human Services, Commerce, and Agriculture, along with the Environmental Protection Agency—account for 1,820 rules, or 43 percent of all rules in the Unified Agenda pipeline.

Liberate to Stimulate?

The short-lived string of budgetary surpluses enjoyed from 1998 to 2001 (the first since 1969) seems like ancient history—even inconceivable—in today’s free-spending culture. Indeed, CBO projects no surpluses whatsoever over the coming decade, merely deficits of hundreds of billions each year. However, if regaining and maintaining an honest surplus ever again become political priorities, policy makers must control regulatory costs as well. The dramatic fact of regulations and deficits—now each exceeding \$1 trillion a year—is an unsettling new development for America. The deficit is already widely—and appropriately—criticized by the media, citizens, and policy makers, but reducing the scope of the regulatory state and

fostering a “deregulatory stimulus” should occupy policy makers as well. When it comes to stimulating a limping economy, reducing both deficits and regulations is critical.

Without better regulatory oversight and monitoring—without an effort to “liberate to stimulate”—the urgency of deficit reduction invites lawmakers to opt for off-budget regulations on the private sector rather than adding to already unchecked deficit spending. Taxation and regulation can substitute for each other. A new government program—for example, job training—would require either increasing government spending on the one hand or imposing new rules and regulations requiring such training on the other. If regulatory costs remain largely hidden from public view, regulating will become increasingly attractive compared with increasingly unpopular taxing and spending.

Disclosure and Accountability

Like federal spending, each agency’s stream of regulations and their costs should be tracked and monitored each year. Cost-benefit analysis of rules is the usual approach suggested for policing regulation. However, a problem with cost-benefit analysis is that it largely amounts to agency self-policing. Agencies that perform “audits” of their own rules would rarely admit that a rule’s benefits do not justify the costs involved. At the least, some third-party review is needed.

Another approach is to leapfrog the cost-benefit debate and go to the source of delegation to the agencies. Congress should answer for the compliance costs—as well as benefits—of federal regulations. Requiring expedited votes on economically significant or controversial agency rules before they become binding on the population would reestablish congressional accountability and would help fulfill the principle of “no regulation without representation.”

Disclosing regulatory costs remains important even if Congress approves rules. Open-

The dramatic fact of regulations and deficits—now each exceeding \$1 trillion a year—is an unsettling new development for America.

ness about regulatory facts and figures is critical, just as disclosure of program costs is critical in the federal budget. Simple federal regulatory “report cards,” similar to the pre-

sentation in *Ten Thousand Commandments*, could be officially issued each year to distill information to the public and policy makers about the scope of the regulatory state.

Overview: Toward Ending “Regulation without Representation”

Regulatory initiatives can allow federal direction of private sector resources with comparatively little public fuss.

The federal government funds new programs either by raising taxes or by borrowing money—with a promise to repay, with interest, from future tax collections. However controversial government spending programs may be, taxpayers can examine costs in the federal budget. Congress’s spending accountability, though imperfect, is a necessary condition for government’s accountability to voters.

The government can also “fund” programs or achieve its objectives by regulating the private sector, thereby advancing federal government initiatives or goals without using tax dollars. Rather than pay directly and

book expenses for new initiatives, the federal government can require the private sector—as well as state and local governments—to pay for federal initiatives through compliance costs.

Because disclosure of and accountability for regulatory costs are both spotty, policy makers can be reckless about imposing regulatory costs relative to undertaking ordinary but more publicly visible government spending. Where regulatory compliance costs prove burdensome, Congress can escape accountability by blaming the agency that issued the unpopular rule. Because regulatory costs are not budgeted and because they lack the for-

Table I. The Regulatory State: A 2011 Overview

| | Year-End 2009 | 1-Year Change | 5-Year Change (2006-2010) | 10-Year Change (2001-2010) |
|---|----------------------|----------------------|----------------------------------|-----------------------------------|
| Total regulatory costs | \$1.752 trillion | n/a | n/a | n/a |
| Agency enforcement budgets | \$56 billion | 3.2% | 25.1% | 69.8% |
| Federal Register pages | 81,405 | 18.7% | 8.6% | 26.3% |
| Federal Register pages devoted to final rules | 24,914 | 19.9% | 11.5% | 26.8% |
| Federal Register final rules | 3,575 | 2.0% | -3.9% | -13.5% |
| Total rules in Agenda | 4,225 | 4.5% | 4.3% | -10.1% |
| “Economically significant” rules in the pipeline | 224 | 21.7% | 61.1% | 50.3% |
| Rules affecting small business | 845 | 11.5% | 7.4% | -15.2% |
| Rules affecting state governments | 547 | 6.4% | 0.7% | -10.0% |
| Rules affecting local governments | 346 | 5.5% | -0.3% | -7.2% |
| GAO reports on major rules | 99 | 17.9% | 76.8% | 41.4% |
| FCC Breakdown (detailed discussion on page 30) | | | | |
| Total number of FCC rules in Agenda | 147 | 1.4% | 5.7% | 1.4% |
| FCC rules affecting small business | 112 | 1.8% | 3.7% | -4.3% |

Note: n/a = not applicable.

mal public disclosure that accompanies federal spending, regulatory initiatives can allow federal direction of private sector resources with comparatively little public fuss—thus rendering regulation a form of off-budget taxation. Table 1 provides some perspective on the regulatory “tax” by presenting summary data for selected topics described within *Ten Thousand Commandments*. Trends over the past few years are provided where information is available.

Ten Thousand Commandments for 2011 contains four sections:

1. An overview of the costs and scope of the regulatory state, such as its estimated size compared with the federal budget and the gross national product.
2. An analysis of trends in the numbers of regulations issued by agencies on the basis of information provided in the *Federal Register* and in “The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.”
3. Recommendations for reform that emphasize ending “regulation without representation.” This section offers steps to improve regulatory cost disclosure and to increase congressional accountability. It contrasts those steps with the agency-driven cost-benefit analysis emphasized in typical reform proposals.
4. An appendix containing historical tables of regulatory trends over the past several years.

The Regulatory State and Its Cost

The 2010 *Report to Congress* from the Office of Management and Budget (OMB) surveying regulatory costs and benefits pegs the cumulative costs of 95 selected major regulations during 1999-2009 at between \$43 billion and \$55 billion. Meanwhile, the estimated range for benefits spanned \$128 billion to \$616 billion.⁸

OMB's cost-benefit breakdown incorporates only benefits and costs that agencies or OMB have expressed in quantitative and monetary terms, thus omitting many categories and cost levels of rules altogether. Cost-benefit analyses are also sensitive to basic assumptions about how regulations translate into benefits.

For an overall cost assessment of the entire regulatory enterprise, economists Nicole V. Crain and W. Mark Crain prepared a comprehensive estimate in September 2010 for the Small Business Administration.⁹ This report assessed economic regulatory costs (for example, price-and-entry restrictions and "transfer" costs, such as price supports, which shift money from one pocket to another); workplace costs; environmental regulatory costs; and paperwork costs (for example, tax compliance). The Crains estimated regulatory costs of \$1.75 trillion for 2008.¹⁰ Meanwhile, anecdotal evidence—not including the aftermath of recent major financial and other interventions—suggests higher prevailing regulatory costs.¹¹

Figure 1 breaks down the regulatory cost estimate by categories: economic, environmental, tax compliance, and workplace. Economic costs, the largest category at \$1.236 trillion, include the noted price-and-

entry controls on business and losses from economic transfers. The current tabulation doesn't include recent regulatory interventions related to the various stimulus and bailout programs and regulatory costs associated with the recent health care and financial reform legislation. Given that indirect costs—such as the effects of lost innovation or productivity—are notoriously difficult to determine, such figures can further understate the total regulatory burden.¹² Regulatory benefits are beyond the scope of the Crains' cost analysis, although those benefits would be recognized as offsetting some costs.¹³

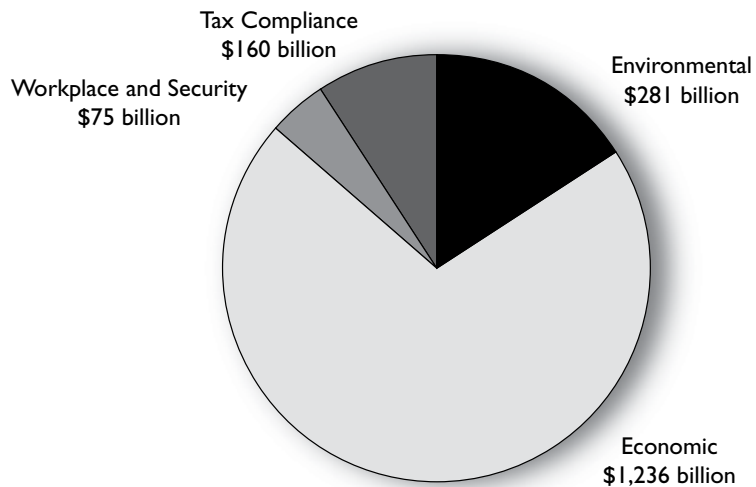
The Crain report also notes the extent to which regulatory costs impose higher burdens on small firms, for which per-employee regulatory costs are higher. Overall, regulatory costs amount to \$8,086 per employee. But Table 2 shows, for 2008, per-employee regulatory costs for firms of fewer than 20 workers can be more than 36 percent greater than for larger firms—\$10,585 for smaller firms versus \$7,755 for larger ones.¹⁴

Regulation Catching Up with Government Spending

After nearly three decades of deficit spending, the federal government temporarily balanced the budget from FY 1998 through FY 2001. (The total surplus was \$128 billion in FY 2001.)¹⁵ Those days are history. In FY 2010, a deficit of \$1.294 trillion was posted on \$3.456 trillion in outlays with no surplus at all projected over the coming decade. In fact, the smallest

After nearly three decades of deficit spending, the federal government temporarily balanced the budget from FY 1998 through FY 2001. Those days are history.

Figure 1. 2008 Federal Regulatory Costs, \$1.752 Trillion



Source: Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>.

Note: The “Workplace” category has been updated to include “Occupational Safety and Health, and Homeland Security. Costs presented in 2009 dollars.

Table 2. Per-Employee Regulatory Costs Higher for Small Firms (2008)

| Size of Firm | Regulatory Costs per Employee |
|-----------------------------------|-------------------------------|
| Large > 500 employees | \$7,755 |
| Medium 20-499 employees | \$7,454 |
| Small < 20 employees | \$10,585 |

Source: Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://archive.sba.gov/advo/research/rs371tot.pdf>.

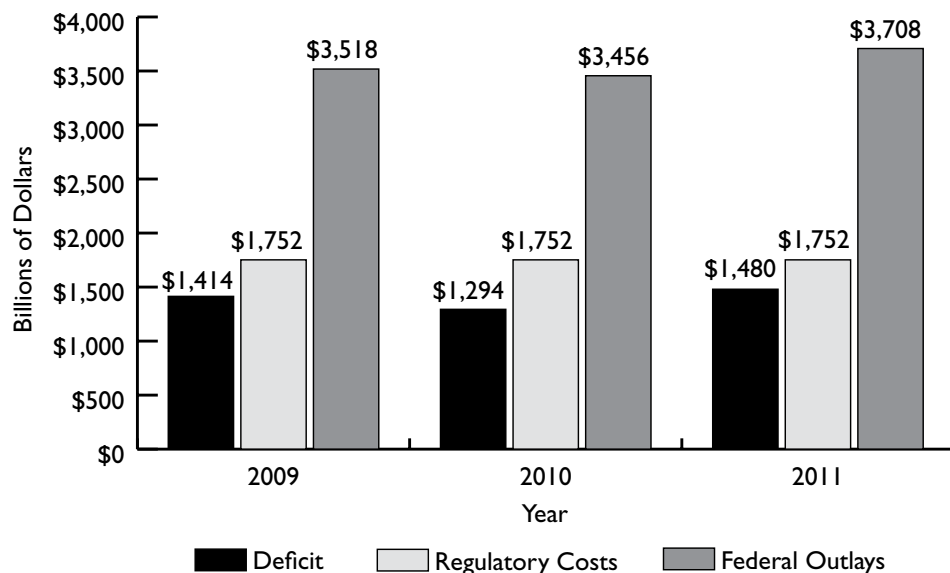
Note: Costs presented in 2009 dollars.

deficit projected is \$533 billion in 2014.¹⁶ (In FY 2009, the figures were \$1.414 trillion and \$3.518 trillion, respectively; in FY 2008, those figures were \$459 billion and \$2.98 trillion, respectively.)¹⁷

Figure 2 compares deficits and outlays during 2009-2010 with the Crains’ regulatory cost estimates, along with a projection for 2011. Note that the regulatory hidden tax in recent years is equivalent to

half the level of fiscal budget outlays. In recent years, the costs of regulation had been more than double the federal deficit. Now, in the wake of the economic downturn and escalated federal spending, the deficit has ballooned to rival the costs of regulation. In a sense, regulations themselves constitute off-budget deficit spending—the costs of federal requirements that the population is compelled to bear—so to pair the two is appropriate.

Figure 2. Off-Budget Regulatory Costs Compared with Federal Spending (2009–2010 and projected 2011)



Sources: The 2009 deficit and outlays are from the Congressional Budget Office, *The Budget and Economic Outlook*, Table I-3, January 2010, <http://www.cbo.gov/ftpdocs/108xx/doc10871/01-26-Outlook.pdf>. 2010, and the 2011 projected costs are from CBO, *The Budget and Economic Outlook: Fiscal Years 2011 to 2021*, January 2011, Table I-4, p. 15. http://www.cbo.gov/ftpdocs/120xx/doc12039/01-26_FY2011Outlook.pdf.

Regulatory costs are from Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>.

Note: Federal deficit and outlay numbers are by fiscal year; regulatory costs represent calendar year 2008, presented in 2009 dollars, and carried through 2011 on a static basis.

The federal spending surge heralds new regulation

Contemplating off-budget regulatory compliance costs equivalent to half the official federal budget is disconcerting enough, but the situation is more precarious now given Washington’s new high-spending culture and a deficit equivalent to regulation that now approaches half the level of outlays.

Higher spending will translate into even higher future regulatory costs. Any spending related to such bailout and “stimulus” as infrastructure, banking restructuring, energy-efficiency mandates, and the like will include significant regulatory components as well (for example, salary cap proposals

with respect to bank bailouts, as well as “net neutrality” proposals with respect to telecommunications infrastructure spending). That analysis bears repeating: New spending related to bailouts, stimulus, and the 2011 State of the Union call for “investment” will have future regulatory cost implications.

Deficit spending that eclipses regulation has ominous implications

The CBO-projected deficit for FY 2011 of \$1.48 trillion is larger than all federal budget outlays as recently as 1994. Indeed, the days of a \$2-trillion federal budget are long past. President George W. Bush—only three years ago—presented the first \$3-trillion budget.

New spending related to bailouts, stimulus, and the 2011 State of the Union call for “investment” will have future regulatory cost implications.

CBO now projects FY 2011 outlays of a staggering \$3.708 trillion.

Trillion-dollar-plus deficits and regulatory costs in the trillions are both unsettling new developments for America. It is sobering to note that both dwarf the initial \$150 billion “stimulus package” of early 2008, which comprised the tax rebates that were to resurrect the economy at that time. Where we go from here is a tough call. In March 2009, House Budget Committee then-Chair John Spratt (D-S.C.) reflected on how quickly circumstances could change:

Economic forecasting is a risky business. A year ago, economists projected a deficit of about \$200 billion for 2009. Economists now project a deficit about nine times that large, due mainly to extraordinary events that no one foresaw a year ago.¹⁸

Policy makers would do well to contemplate how the spending and deficit culture leads to growth in off-budget regulation.

A retreat from deficit spending could mean more regulation

As noted in the introductory summary, taxation and regulation can substitute for each other because regulation can advance government initiatives without using tax dollars. Rather than pay directly and book expenses for new programs, the government can require the private sector—as well as state and local governments—to pay for federal initiatives through compliance costs.

Because such regulatory costs are not budgeted and lack the formal public disclosure of federal spending, they may generate comparatively little public outcry. Regulation thus becomes a form of off-budget or hidden taxation.

As the mounting federal debt causes concern, the impulse to regulate instead can also mount. Deficit spending, in a manner of speaking, can manifest itself as regulatory compliance costs that go largely unacknowledged by the federal government. Worse, if regula-

tory compliance costs prove burdensome, Congress can escape accountability by blaming the agencies that issue the unpopular rules.

Regulatory Costs versus Income Taxes and Corporate Profits

Regulatory costs now comfortably exceed the cost of individual income taxes, and those costs vastly exceed revenue from corporate taxes. As Figure 3 shows, regulatory costs now tower over the estimated 2010 individual income taxes of \$936 billion (individual income tax receipts have fallen substantially in the economic downturn).¹⁹ Corporate income taxes, estimated at \$157 billion, are dwarfed by regulatory costs (and themselves have declined by half in the downturn).²⁰ As the last bar of Figure 3 shows, regulatory cost levels exceed the level of pretax corporate profits, which were \$1.463 trillion in 2008.²¹ (Corporate profits have dropped dramatically over the past few years.)

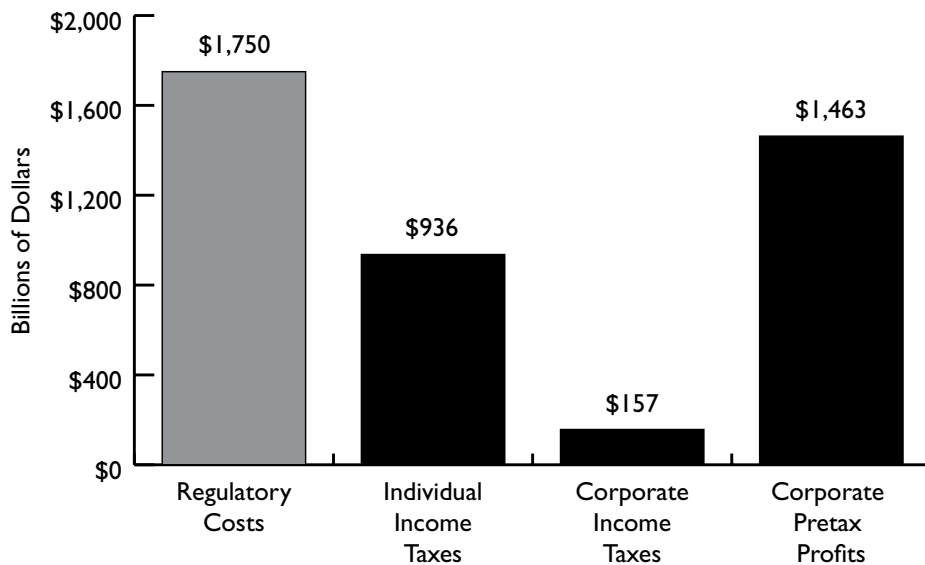
For a global perspective, consider that U.S. regulatory costs of \$1.75 trillion exceed the output of many major national economies. Figure 4 shows that U.S. regulatory costs surpassed the entire 2008 gross national incomes of Canada and Mexico, which stood at \$1.454 trillion and \$1.062 trillion, respectively.²² For the United States, the CBO estimated 2010 GDP at \$14.649 trillion.²³ Total regulatory costs of \$1.752 trillion are equivalent to 12 percent of that amount. Combining regulatory costs with federal FY 2010 outlays of \$3.456 trillion indicates that the federal government’s share of the economy (of GDP) now reaches *35.5 percent*.

The Federal Government’s Costs of Policing the Regulatory State

The Crain regulatory cost estimates encompass compliance costs paid by the public and by state and local governments. But those estimates do not include the costs of *administering* the regulatory state—the on-budget amounts spent by federal agencies to produce rules and to police regulatory compliance.

If regulatory compliance costs prove burdensome, Congress can escape accountability by blaming the agencies that issue the unpopular rules.

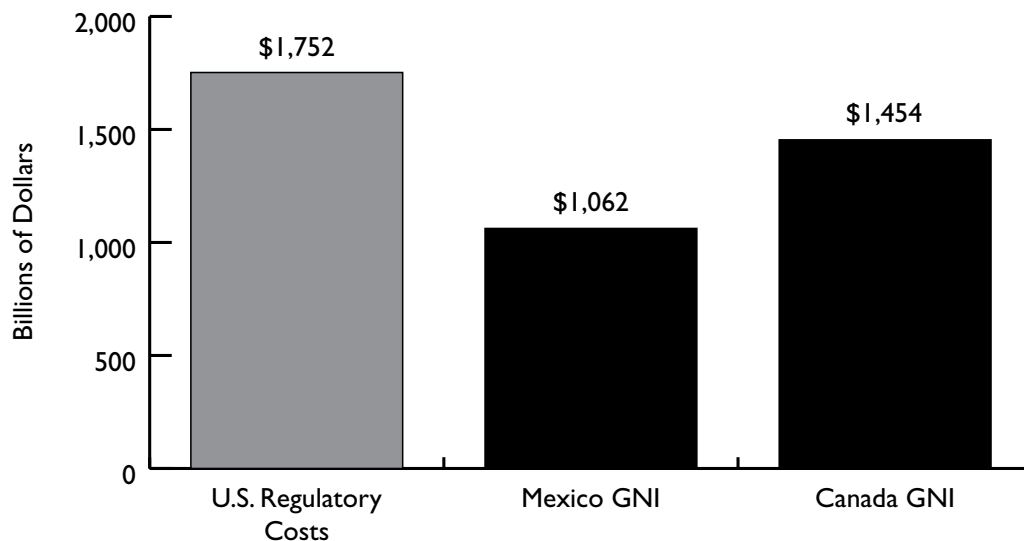
Figure 3. Regulatory Costs Compared with Individual Income Taxes, Corporate Income Taxes, and Corporate Pretax Profits



Sources: Nicole V. Crain and W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>. Tax figures from U.S. Census Bureau, Statistical Abstract of the United States: 2010, Table 473, "Federal Budget Receipts by Source: 1990 to 2010," <http://www.census.gov/compendia/statab/2011/tables/11s0473.pdf>. Profits from U.S. Census Bureau, Statistical Abstract of the United States: 2011, Table 787, "Corporate Profits before Taxes by Industry: 2000 to 2008," <http://www.census.gov/compendia/statab/2011/tables/11s0787.pdf>.

Note: Profits do not reflect inventory valuation and capital consumption adjustments.

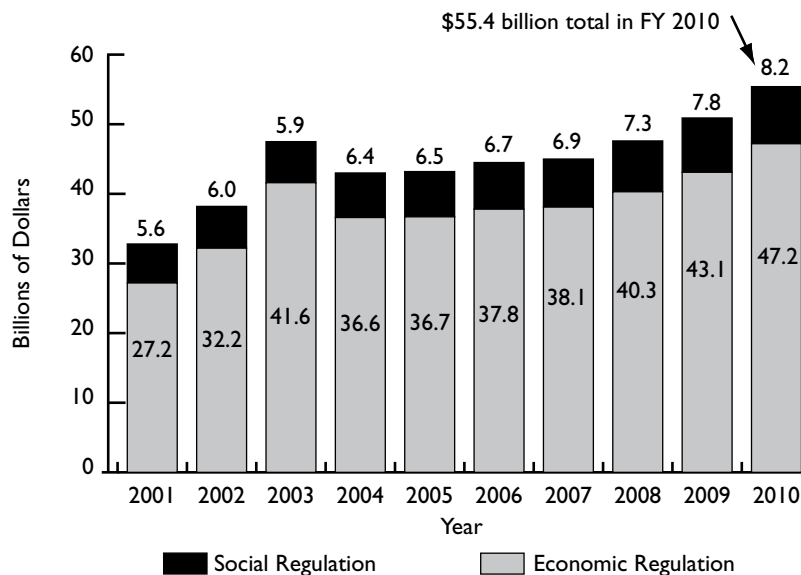
Figure 4. U.S. Regulatory Costs Compared with Mexico's and Canada's Gross National Income



Sources: Nicole V. Crain and W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>.

GNI figures for Canada and Mexico are from U.S. Census Bureau, Statistical Abstract of the United States: 2011, Table 1347, "Gross National Income (GNI) by Country: 2000 and 2008," <http://www.census.gov/compendia/statab/2011/tables/11s1347.pdf>.

Figure 5. Agency Enforcement Budgets, 2001–2010
(billions of constant 2009 dollars)



Source: Susan Dudley and Melinda Warren, “A Decade of Growth in the Regulators’ Budget: An Analysis of the U.S. Budget for Fiscal Years 2010 and 2011,” *Regulators’ Budget Report 32*, published jointly by the Regulatory Studies Center of George Washington University and the Weidenbaum Center, May 2010, p. 23. <http://www.regulatorystudies.gwu.edu/images/pdf/regbudget20100518.pdf>.

Original 2005 constant dollars are here adjusted by the change in the consumer price index between 2005 and 2009, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2011*, Table 724, “Consumer Price Indexes (CPI-U) by Major Groups: 1990 to 2009,” <http://www.census.gov/compendia/statab/2011/tables//1s0724.pdf>.

The Weidenbaum Center at Washington University in St. Louis and the Regulatory Studies Center at George Washington University in Washington, D.C., together examined the federal budget to excerpt and compile the administrative costs of developing and enforcing regulations. Because those funds are amounts that taxpayers pay to support agencies’ administrative budgets, rather than compliance costs paid by the regulated parties, the amounts are disclosed in the federal budget.

FY 2010 enforcement costs incurred by federal departments and agencies stood at an estimated \$55.4 billion (in constant 2009 dollars), an increase over the previous year’s 50.9 billion (Figure 5).²⁴ Of that amount, \$8.2 billion was spent administering economic regulation. The larger amount spent for writing and enforcing social and environmental regulations was \$47.2 billion. Those enforcement costs help

complete the picture of the federal regulatory apparatus. Adding the \$55.4 billion in administrative costs tabulated by the Weidenbaum Center and Mercatus Center to the \$1.752 trillion in the Crains’ estimate for compliance costs brings the total estimated 2010 regulatory burden to roughly \$1.8 trillion.

Estimated full-time-equivalent employment staffing reached 276,429 in FY 2010, according to the Weidenbaum and Mercatus report. That figure is 54 percent above staffing levels in 2000. The surges after 2001 were largely attributable to the newly created Transportation Security Administration’s (TSA) hiring of thousands of airport personnel. Over the past year alone, staffing is up by 7 percent. (According to a 2008 analysis, even excluding the new TSA personnel, government staffing rose at that time by nearly 11 percent, and costs increased by 30 percent.)²⁵

Thousands of Pages in the *Federal Register*

The *Federal Register* is the daily depository of all proposed and final federal rules and regulations. The number of pages in the *Federal Register* is probably the most frequently cited measure of regulation's scope. Yet serious problems exist with using the number of pages alone as a proxy for regulation. For example, in 2002, several thousand pages pertained to the Justice Department's Microsoft settlement—important, but not contributing to a precise gauge of government-wide goings-on. Many newer rules address homeland security, an important general pursuit regardless of specific policy battles. Even efforts to reduce regulation and lessen burdens would involve agencies' posting lengthy notices in the *Federal Register*, but those are not factors now in the bulk of the *Register*.

There are obvious problems with relying on page counts. The wordiness of rules will vary, thus affecting the number of pages and obscuring the real effects of the underlying rules. A short rule could be costly and a lengthy one relatively cheap. Furthermore, the *Federal Register* contains administrative notices, corrections, presidential statements, and other material. And hundreds, even thousands, of blank pages sometimes appear owing to the Government Printing Office's imperfect prediction of the number of pages a given agency will require.

Despite limitations, it remains worthwhile to track the *Federal Register's* growth through page counts, provided the caveats listed above are kept in mind. As Figure 6 shows, at the end of 2010, the number of pages stood at 81,405, an all-time record high and an increase of 19 percent from 68,598 pages the year before. (The previous record high

was 79,435 pages in 2008.) Tens of thousands of pages stream from America's departments, agencies, and commissions.

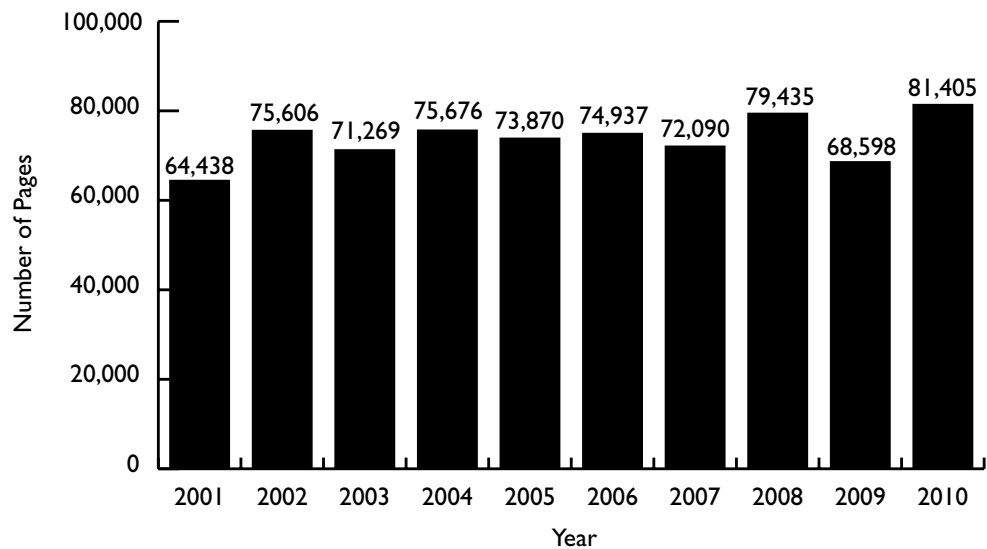
Referring again to Figure 6, the third-highest page count had been 75,606 in 2002 (the year the Microsoft settlement contributed to the total). Since 2002, annual page counts remained above 70,000 until the 2009 dip. The 2010 increase means that, overall, the decade from 2001 to 2010 saw the annual page count increase by 26.3 percent. (For a history of *Federal Register* page totals since 1936, see Appendix: Historical Tables, Part A.)

The drop in pages in 2009 looks like an anomaly. Future analysis will have to tell the tale more completely, but there are at least three potential explanations for the notable drop in *Federal Register* pages (and the actual number of rules finalized) in 2009, which occurred between the Bush and Obama administrations:

- The 2009 drop is exaggerated relative to the normal page fluctuations since President Bush issued a flurry of “midnight regulations” at the end of his term in 2008,²⁶ the record year for *Federal Register* pages. Apart from midnight regulations, the current 2009 level still marks a decline from the years before 2008.
- President Obama's appointment of Harvard law professor Cass Sunstein, who is favorable toward cost-benefit analysis, as director of the Office of Information and Regulatory Affairs (OIRA) could have slowed 2009 rulemaking, had he been promptly confirmed. Cost-benefit analysis is unpopular among advocacy

*Despite limitations,
it remains
worthwhile to
track the Federal
Register's growth
through page
counts, provided
the caveats listed
are kept in mind.*

Figure 6. Number of Federal Register Pages, 2001–2010



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

Gross page counts alone do not reveal whether actual regulatory burdens have increased or decreased; a rule of few pages might impose a significant burden.

groups that favor activist agency regulation rather than congressional accountability for legislation.²⁷ However, the OIRA director’s Senate approval actually came late in calendar year 2009, so 2010 may be more indicative of his effect, which appears at this point to have been no brake.

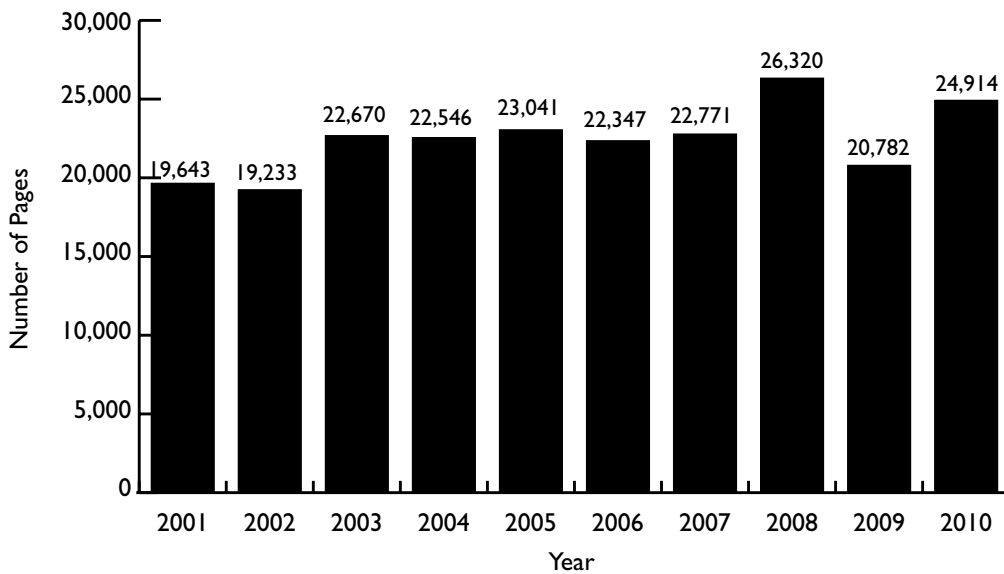
- Finally, the regulatory freeze announced by the president’s chief of staff in January 2009,²⁸ which applied to Bush regulations still in the pipeline, may have had some measurable effect by slowing what otherwise might have landed in the books during 2009.²⁹ However, this effect may not be permanent. A freeze on regulations by the first President Bush did slow regulations the year after its implementation, but rules resumed normal trends once the moratorium was lifted.³⁰ In any event, the longer-term result of any “dampening” effect of this temporary moratorium relative to the expansion of other rules under President George W. Bush remains to be sorted out, but the two effects are consistent with the surge and the retreat seen in *Federal Register* pages in 2008 and 2009, respectively.

Federal Register Pages Devoted to Final Rules

Gross page counts alone do not reveal whether actual regulatory burdens have increased or decreased; a rule of few pages might impose a significant burden. Isolating the pages devoted specifically to *final* rules might be a bit more informative, because that approach omits pages devoted to proposed rules, agency notices, corrections, and presidential documents. Between 2009 and 2010, the number of pages devoted to final rules rose by 19.9 percent—from 20,782 to a near-record-high 24,914. The all-time record was 26,320 in 2008 (Figure 7); the number had dropped sharply by 21 percent to 20,782 in 2009.

Until the 2008 record and the 2010 height, a count of 24,482 pages back in 2000 under President Clinton had been the highest since 1976, when the *Federal Register* page-count breakdown by category was first reported. That count in 2000 was up by 21 percent over 1999 (possibly partly attributable to a “midnight regulations” effort by President Clinton to complete the backlog of rules be-

Figure 7. *Federal Register* Pages Devoted to Final Rules, 2001–2010



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

fore the arrival of the Bush administration). The drop right after Clinton's final year in office was noteworthy in that this Clinton-to-Bush drop mirrors the one we saw from Bush to Obama.

Over the past decade, the number of *Federal Register* pages devoted to final rules has increased by 26.8 percent. The number of final-rule pages has remained above 22,000 since 2003 except for the 2009 dip.

Yet another way of looking at *Federal Register* trends is pages per decade (see Figure 8). During the 1990s, the total number of *Federal Register* pages published was 622,368, whereas the total number published during the 1980s was 529,223. (The busiest year in the 1980s was the 1980 peak of 73,000 pages.) Here at the end of the first decade of the 21st century,³¹ 730,176 pages ultimately appeared—a 17-percent increase over the 1990s and an average of 73,018 pages annually. If pages hold in the 80,000 range, there will be a considerable increase for the second quarter of the new century.

Although the final codification of general and permanent rules as ultimately realized in the

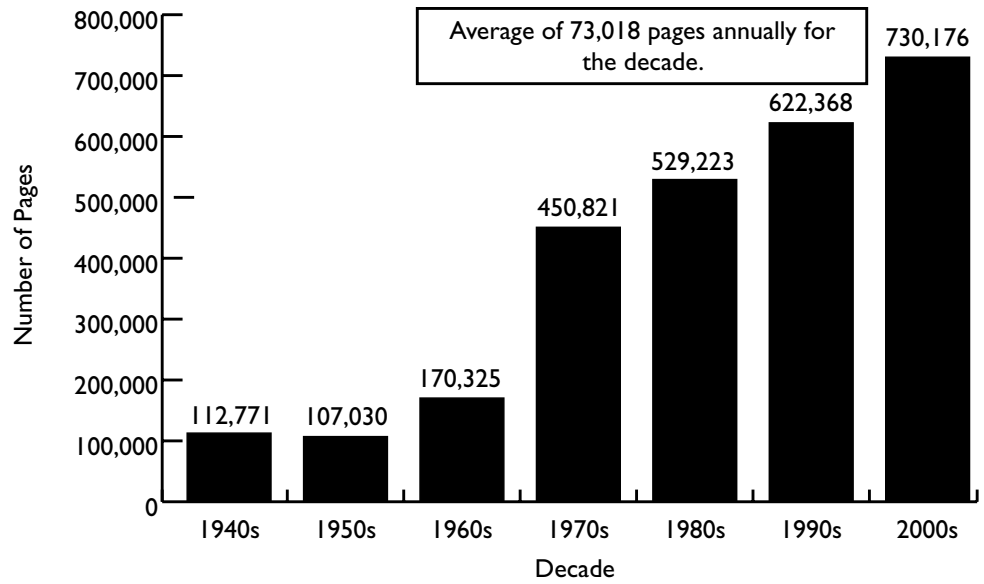
Code of Federal Regulations (CFR) is considerably more modest in terms of numbers—if not in costs—today's CFR contains 55 percent more pages than that for 1980. Since 1980, the CFR has grown from 102,195 pages to 157,974 at year-end 2009. By contrast, in 1960, it had only 22,877 pages.

Although one must recognize the limitations of *Federal Register* page counts, the higher overall number of pages compared with past decades, plus a stream of pages devoted to final rules averaging well over 20,000 annually, credibly signifies higher levels of final rule costs and burdens.

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

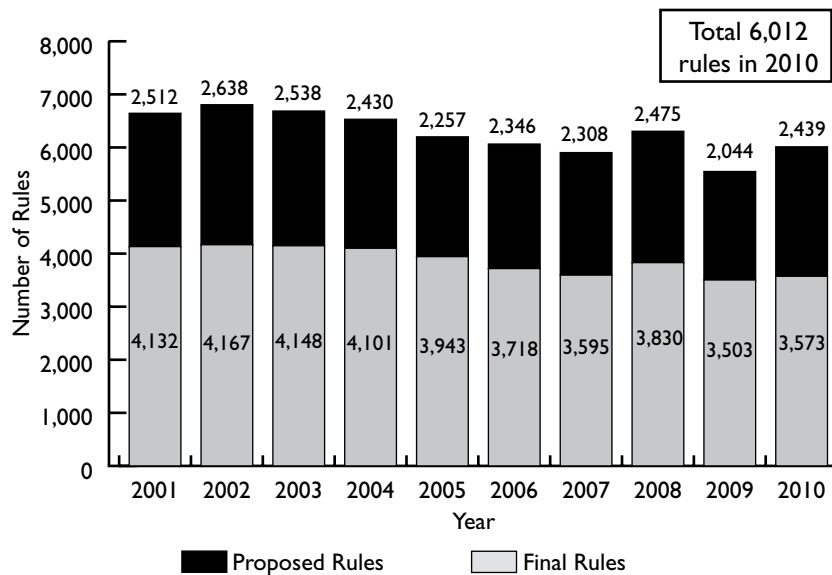
The actual numbers of proposed and final rules—not just the page count—published in the *Federal Register* merit attention. As Figure 9 shows, in 2010 the total number of proposed and final rules published rose to 6,012, an 8.4-percent increase over 5,547 rules in 2009 (but less than 6,305 in 2008).

Figure 8. New *Federal Register* Pages per Decade



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

Figure 9. Number of Rules Published in the *Federal Register*, 2001–2010



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

The number of rules actually finalized by federal agencies in 2010 also rose slightly—from 3,503 to 3,573. More significant, however, is the increase in proposed rules appearing in the *Federal Register*: There were 2,044 in 2009, and that number rose by 19.3 percent, to 2,439, in 2010. Despite the current surge, the number of final rules currently being published is lower than it was throughout the 1990s. The average number of annual regulations finalized during the 1990s was 4,596. The average for the first decade of the 21st century (2000–2009) was 3,945. That is a positive trend. However, as noted before, recent budgetary spending surges point toward likely higher

levels of future regulation, as the increase in proposed rules demonstrates. (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 effect of regulation can matter a great deal despite yearly fluctuations. The bottom line is that the annual outflow of some 4,000 final rules has meant that nearly 64,000 rules have been issued since 1995. Although the costs of those rules can vary tremendously, that number represents a substantial yield of rules and regulations.

The annual outflow of some 4,000 final rules has meant that nearly 64,000 rules have been issued since 1995.

Analysis of the Regulatory Plan and Unified Agenda

The “Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions” appears in the *Federal Register* each December. By detailing rules recently completed, plus those anticipated within the upcoming 12 months by the roughly 60 federal departments, agencies, and commissions, the Agenda helps gauge the pulse of the regulatory pipeline.

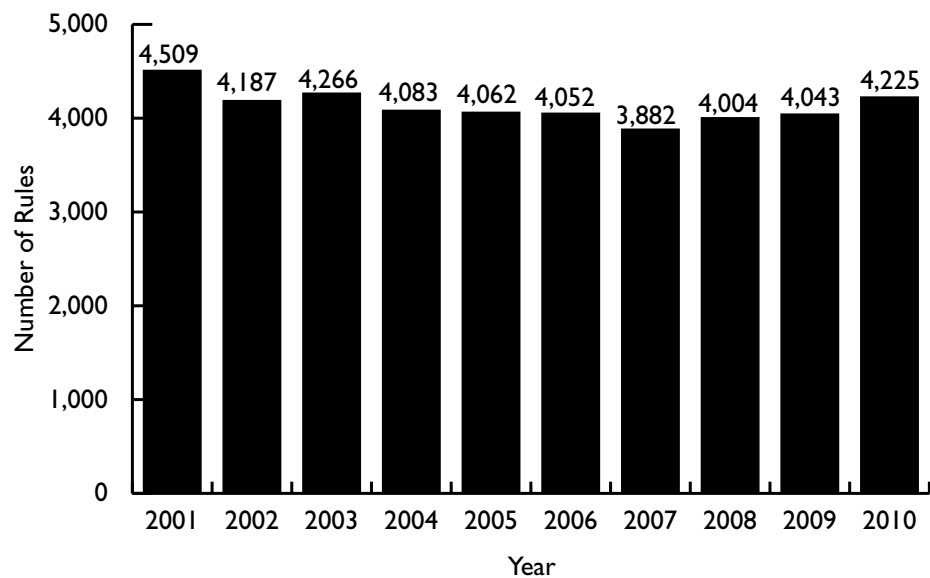
The Agenda lists federal regulatory actions at several stages: “prerules,” proposed and final rules, actions completed during the previous few months, and anticipated longer-term rulemakings. The Agenda functions as a cross-sectional snapshot of rules moving

through the pipeline. Therefore, the rules it contains may often 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 rules primarily affect the private sector, but many also affect state and local governments and the federal government itself.

4,225 New Rules in the Pipeline

The 2010 Agenda finds federal agencies, departments, and commissions at work on 4,225 regulations from the prerule to the just-completed stages.³² This level is up by 4.5 percent from 4,043 in 2009 (see Figure 10).

Figure 10. Total Agency Rules in the Unified Agenda Pipeline, 2001–2010



Source: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, December edition, various years.

The number of rules in the Agenda peaked at 5,119—17 years ago in 1994—and the count has remained above 4,000 except in 2007, when the count dropped to 3,882. (For a history of numbers of rules in the Unified Agenda since 1983, see Appendix: Historical Tables, Part C.)³³

Table 3 breaks down the 4,225 rules according to issuing department, agency, or commission. Each year, a relative handful of agencies account for a large number of the rules produced. The five departments and agencies listed in Table 4—the departments of the Treasury, Health and Human Services, Commerce, and Agriculture, along with the Environmental Protection Agency—were the biggest rulemakers. These top five, with 1,820 rules among them, account for 43.1 percent of all rules in the Agenda pipeline. (For the numbers of rules by department and agency from previous editions of the Unified Agenda, see Appendix: Historical Tables, Part D.)

In late 2010, Rep. Darrell Issa (R-Calif.) issued a request to businesses, trade groups, and think tanks, asking which rules were most burdensome, and he received more than 160 responses filled with recommendations,³⁴ including from the Competitive Enterprise Institute, the publisher of this paper.³⁵

Federal agencies noted the following initiatives (among many others) as priorities in recent Unified Agenda editions:

Department of Agriculture

- Mandatory country-of-origin labeling of beef, pork, lamb, fish, and peanuts
- Inspection regulations for eggs and egg products
- Performance standards for ready-to-eat meat and poultry products
- New poultry slaughter inspection regulations
- Regulations concerning importation of unmanufactured wood articles (solid-wood packing material)

Table 3. Unified Agenda Entries by Department and Agency, December 2010 (continued on next page)

| | Total Rules | Reg. Plan | Agenda |
|--|-------------|-----------|--------|
| Department of Agriculture | 287 | 26 | 261 |
| Department of Commerce | 296 | 4 | 292 |
| Department of Defense | 150 | 2 | 148 |
| Department of Education | 23 | 2 | 21 |
| Department of Energy | 96 | 6 | 90 |
| Department of Health and Human Services | 312 | 20 | 292 |
| Department of Homeland Security | 230 | 30 | 200 |
| Department of Housing and Urban Development | 65 | 2 | 63 |
| Department of the Interior | 259 | | 259 |
| Department of Justice | 137 | 1 | 136 |
| Department of Labor | 99 | 19 | 80 |
| Department of State | 30 | | 30 |
| Department of Transportation | 223 | 17 | 206 |
| Department of the Treasury | 580 | | 580 |
| Department of Veterans Affairs | 81 | | 81 |
| Environmental Protection Agency | 345 | 27 | 318 |
| Agency for International Development | 14 | | 14 |
| Architectural and Transportation Barriers Compliance Board | 7 | | 7 |
| Commission on Civil Rights | 1 | | 1 |
| CPBSD* | 3 | | 3 |
| Commodity Futures Trading Commission | 56 | | 56 |
| Consumer Product Safety Commission | 51 | 1 | 50 |
| Corporation for National and Community Service | 10 | | 10 |
| Court Services/Offender Supervision, D.C. | 2 | | 2 |
| Federal Acquisition Regulation | 85 | | 85 |
| Equal Employment Opportunity Commission | 7 | 1 | 6 |
| Farm Credit Administration | 23 | | 23 |
| Federal Communications Commission | 147 | | 147 |
| Federal Deposit Insurance Corporation | 21 | | 21 |
| Federal Energy Regulatory Commission | 36 | | 36 |
| Federal Housing Finance Agency | 27 | | 27 |
| Federal Maritime Commission | 4 | | 4 |
| Federal Mediation and Conciliation Service | 2 | | 2 |
| Federal Reserve System | 22 | | 22 |
| Federal Trade Commission | 19 | | 19 |
| General Services Administration | 34 | | 34 |
| Institute of Museum and Library Services | 2 | | 2 |
| National Aeronautics and Space Administration | 26 | | 26 |

* Committee for Purchase from People Who Are Blind or Severely Disabled.

Table 3. Unified Agenda Entries by Department and Agency, December 2009 (continued)

| | Total Rules | Reg. Plan | Agenda |
|--|--------------------|------------------|---------------|
| National Archives and Records Administration | 9 | 2 | 7 |
| National Credit Union Administration | 24 | | 24 |
| National Endowment for the Humanities | 4 | | 4 |
| National Indian Gaming Commission | 9 | 2 | 7 |
| National Science Foundation | 2 | | 2 |
| Nuclear Regulatory Commission | 63 | | 63 |
| Office of Government Ethics | 7 | | 7 |
| Office of Management and Budget | 7 | | 7 |
| Office of Personnel Management | 77 | | 77 |
| Peace Corps | 1 | | 1 |
| Pension Benefit Guaranty Corporation | 10 | | 10 |
| Postal Regulatory Commission | 3 | 1 | 2 |
| Railroad Retirement Board | 1 | | 1 |
| Recovery Accountability and Transparency Board | 1 | | 1 |
| Securities and Exchange Commission | 75 | | 75 |
| Selective Service System | 1 | | 1 |
| Small Business Administration | 51 | 4 | 47 |
| Social Security Administration | 63 | 7 | 56 |
| Surface Transportation Board | 5 | | 5 |
| TOTAL | 4,225 | 174 | 4,051 |

Source: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 74, No. 233, December 7, 2009; and from online edition at <http://www.reginfo.gov>.

- Bovine spongiform encephalopathy: minimal risk regions and importation of commodities
- Nutrition labeling of single-ingredient and on ground or chopped meat and poultry products

Department of Commerce

- Right whale ship strike reduction

Department of Health and Human Services

- Substances prohibited from use in animal food or feed
- Prevention of *Salmonella enteritidis* in shell eggs
- Good manufacturing practice in manufacturing, packing, or holding dietary ingredients and dietary supplements
- Registration of food and animal feed facilities
- Food labeling: transfatty acids in nutrition labeling, nutrient content claims, and health claims
- Criteria for determining whether a drug is considered usually self-administered
- Requirements for long-term care facilities: hospice services
- Bar-code label requirements for human drug products and blood
- Pediatric dosing for various over-the-counter cough, cold, and allergy products
- Fire-safety and sprinkler requirements for long-term care facilities

Department of Homeland Security

- Computer Assisted Passenger Prescreening System, providing government access to passenger reservation information
- Importer security filing
- Air cargo screening and inspection of towing vessels
- Minimum standards for driver's licenses and ID cards acceptable to federal agencies

Table 4. Top Rule-Producing Departments or Agencies, 2010

| Department or Agency | Number of Regulations |
|--|-----------------------|
| 1. Department of the Treasury | 580 |
| 2. Environmental Protection Agency | 345 |
| 3. Department of Health and Human Services | 312 |
| 4. Department of Commerce | 296 |
| 5. Department of Agriculture | 287 |
| TOTAL | 1,820 |

- Secure Flight Program
- United States Visitor and Immigrant Status Indicator Technology program, which is authorized to collect biometric data from travelers and to expand to the 50 most highly trafficked land border ports

Department of Labor

- Occupational exposure to crystalline silica
- Rules regarding confined spaces in construction: preventing suffocation and explosions
- Implementation of the health care access, portability, and renewability provisions of the Health Insurance Portability and Accountability Act of 1996
- Hearing conservation program for construction workers
- Cranes and derricks
- Health care standards for mothers and newborns
- Protective equipment in electric power transmission and distribution
- Refuge alternatives for underground coal mines
- Occupational exposure to tuberculosis

Department of Energy

- Energy-efficiency and conservation standards for residential furnaces, boil-

- ers, and mobile home furnaces; electric distribution transformers; commercial refrigeration units and heat pumps; clothes dryers, room air conditioners and dishwashers; pool heaters and direct heating equipment; fluorescent and incandescent lamps; small electric motors; battery chargers and power supplies; residential central air conditioners and heat pumps; and walk-in coolers and freezers
- Advanced technology vehicles manufacturing incentive program

Department of Transportation

- Reform of the automobile fuel economy standards program
- Light-truck Corporate Average Fuel Economy standards (2012 model years and beyond)
- Aging aircraft safety
- Flight crew duty limitations and rest requirements
- Upgrade of head restraints in vehicles
- Rear center lap and shoulder belt requirement
- Registration and training for operators of propane tank-filling equipment
- Monitoring systems for improved tire safety and tire pressure
- Automotive regulations for car lighting, door retention, brake hoses, daytime running-light glare, and side impact protection

- Minimum training requirements for operators and training instructors of multiple trailer combination trucks
- Hours of service, rest, and sleep for truck drivers
- Mobile personal satellite communications
- Satellite broadcasting signal carriage requirements
- Rules regarding Internet protocol-enabled devices

Environmental Protection Agency

- Rulemaking to address greenhouse gas emissions from motor vehicles
- Clean air visibility, mercury, and ozone implementation rules
- Review of National Ambient Air Quality Standards for lead, ozone, sulfur dioxide, particulate matter, and nitrogen dioxide
- Rulemakings regarding lead-based paint
- National drinking water regulations covering groundwater and surface water
- National emission standards for hazardous air pollutants from plywood and composite wood products, certain reciprocating internal combustion engines, and auto paints
- Renewable fuels standard program
- Standards for cooling water intake structures
- Combined rulemaking for industrial, commercial, and institutional boilers and process heaters
- Standards for management of electric power producer coal-combustion wastes
- Control of emissions from nonroad spark ignition engines, new locomotives, and new marine diesel engines

Consumer Product Safety Commission

- Flammability standards for upholstered furniture and bedclothes
- Banning of certain backyard play sets
- Product registration cards for products intended for children

Federal Communications Commission

- Broadband over power line systems

Department of Housing and Urban Development

- Revision of manufactured home construction and safety standards regarding location of smoke alarms
- Regulation of Fannie Mae and Freddie Mac on “housing goals”
- Regulations within the Real Estate Settlement Procedures Act pertaining to mortgages and closing costs
- Refinement of income and rent determinations in public and assisted housing

Department of the Treasury

- Prohibition of funding of unlawful Internet gambling
- Capital adequacy guidelines

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

A subset of the Agenda’s 4,225 rules is classified as “economically significant,” meaning that agencies anticipate yearly economic impacts of at least \$100 million apiece. Those impacts generally lead to increased costs, although occasionally an economically significant rule is intended to reduce costs. As Table 5 shows, 224 new economically significant rules are under consideration by 21 separate departments and agencies at the prerule, proposed rule, final rule, long-term, and recently completed stages. As Figure 11 shows, this is a 21.7 percent increase over the 184 high-cost rules in 2009, and a 61.1 percent jump over the past five years.

High-cost “economically significant” rules are scattered among the 4,225 rules in the Agenda. Each will have an annual impact of

Table 5. 224 Rules in the Pipeline Expected to Cost More than \$100 Million Annually, 2010

| | Rules |
|---|--------------|
| Department of Agriculture | 16 |
| Department of Commerce | 1 |
| Department of Defense | 6 |
| Department of Education | 4 |
| Department of Energy | 18 |
| Department of Health and Human Services | 67 |
| Department of Homeland Security | 13 |
| Department of Housing and Urban Development | 2 |
| Department of Justice | 4 |
| Department of the Interior | 3 |
| Department of Labor | 20 |
| Department of State | 1 |
| Department of Transportation | 17 |
| Department of the Treasury | 5 |
| Department of Veterans Affairs | 3 |
| Environmental Protection Agency | 31 |
| Consumer Product Safety Commission | 2 |
| Federal Communications Commission | 7 |
| Federal Deposit Insurance Corporation | 2 |
| Nuclear Regulatory Commission | 1 |
| Social Security Administration | 1 |
| Small Business Administration | 1 |
| Social Security Administration | 2 |
| TOTAL | 224 |

Source: Compiled from “The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, Vol. 75, No. 243, December 20, 2010; and from online edition at <http://www.reginfo.gov>.

at least \$100 million, so those rules can be expected to impose annual costs on the order of \$22 billion (224 rules multiplied by \$100 million). Some rules may reduce costs, but not typically. (For a full list of the 224 economically significant rules, see Appendix: Historical Tables, Part E.)

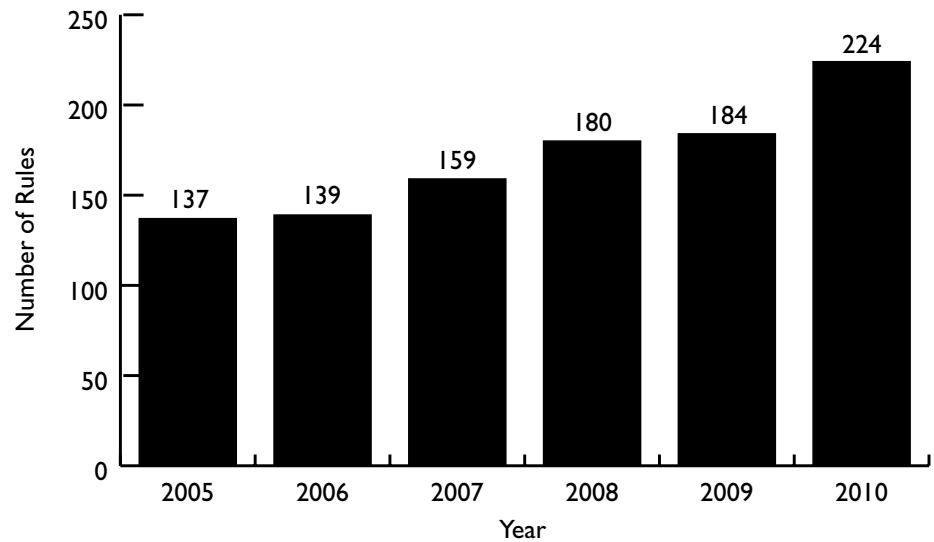
A breakdown of the \$22 billion in regulatory costs (and sometimes benefits) is rarely presented directly for each rule in the Agenda. Actual costs can sometimes best be found by combing through the document or searching online. Rather than accumulate and summarize regulatory costs for the readers’ benefit, each Agenda entry indicates whether a rule

is economically significant and occasionally provides additional cost data from agency regulatory impact analyses. Note also that even though the \$22 billion in anticipated economic impacts represents a floor (of a sort) for regulatory costs, it is not a one-time cost but a recurring annual cost that must be added to prior years’ costs, as well as to future costs.

Nor are agencies required to limit their regulatory activity to what they publish in the Agenda. As the *Federal Register* notes:

The Regulatory Plan and the Unified Agenda do not create a legal

Figure 11. “Economically Significant” Rules in the Agenda Pipeline, 2005–2010



Source: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, December edition, various years.

obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.³⁶

Finally, the fact that policy makers and analysts pay the most attention to economically significant rules should not lull them into ignoring the remaining bulk of rules in the yearly pipeline. In 2010, 4,001 federal rules were not considered officially economically significant by the government (4,225 total rules minus the 224 economically significant ones). But that categorization does not mean that many of those rules are not economically significant in the ordinary sense of the term to those affected by them. Any of the rules may cost up to \$99 million and still evade the “economically significant” category.

Federal Regulations Affecting Small Business

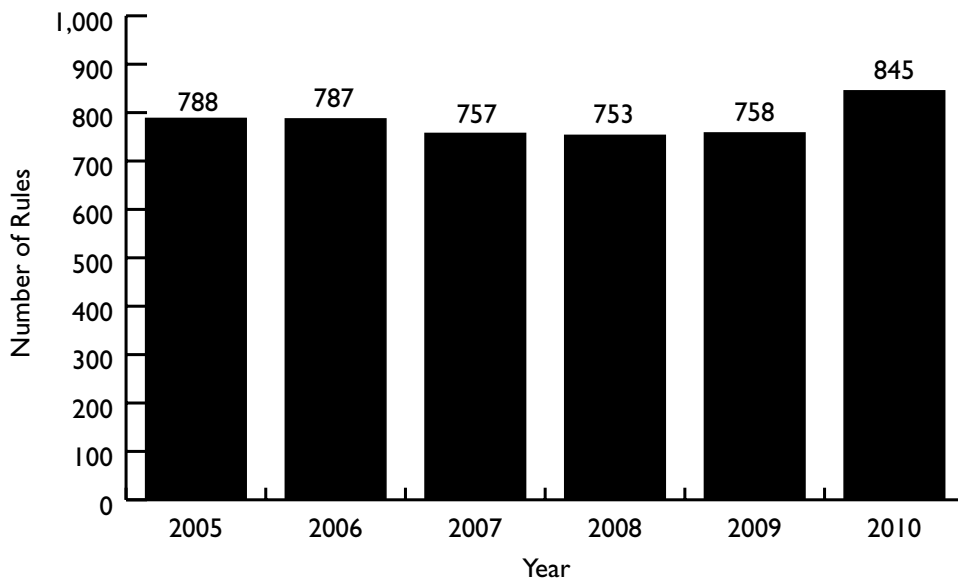
The Regulatory Flexibility Act requires federal agencies to assess the effects of their

rules on small businesses. As the *Federal Register* puts it, “The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the *Federal Register* describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities.”³⁷ Figure 12 shows that annual rules significantly affecting small business just took a considerable jump after having remained rather flat in recent years; at the end of 2010, they are up to 845 over 758 in 2009.

Table 6 breaks out the 2010 Agenda’s 845 rules affecting small business by department, agency, and commission. Five of them—the departments of Agriculture, Commerce, and Health and Human Services; the Environmental Protection Agency; and the Federal Communications Commission—account for 501, or 59 percent, of the rules affecting small business. (For the numbers of rules affecting small business broken down by department and agency for Agendas since 1996, see Appendix: Historical Tables, Part F.) The proportion of total rules affecting

Rules may cost up to \$99 million and still evade the “economically significant” category.

Figure 12. Rules Affecting Small Business, 2005–2009



Sources: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, various years’ editions; and from online edition at <http://www.reginfo.gov>.

Table 6. Unified Agenda Entries Affecting Small Business by Department, Agency, and Commission, December 2009 (continued on next page)

| | Total Rules | Number Affecting Small Business | | Total | % Affecting Small Business |
|--|-------------|---------------------------------|------------------|-------|----------------------------|
| | | RFA Required | RFA Not Required | | |
| Department of Agriculture | 287 | 42 | 42 | 84 | 29.3 |
| Department of Commerce | 296 | 73 | 25 | 98 | 33.1 |
| Department of Defense | 150 | 4 | 12 | 16 | 10.7 |
| Department of Education | 23 | 1 | | 1 | 4.3 |
| Department of Energy | 96 | 2 | 1 | 3 | 3.1 |
| Department of Health and Human Services | 312 | 61 | 51 | 112 | 35.9 |
| Department of Homeland Security | 230 | 16 | 21 | 37 | 16.1 |
| Department of Housing and Urban Development | 65 | | 1 | 1 | 1.5 |
| Department of the Interior | 259 | 3 | 15 | 18 | 6.9 |
| Department of Justice | 137 | 1 | 4 | 5 | 3.6 |
| Department of Labor | 99 | 10 | 16 | 26 | 26.3 |
| Department of State | 30 | | 20 | 20 | 66.7 |
| Department of Transportation | 223 | 26 | 23 | 49 | 22.0 |
| Department of the Treasury | 580 | 6 | 50 | 56 | 9.7 |
| Department of Veterans Affairs | 81 | | 3 | 3 | 3.7 |
| Environmental Protection Agency | 345 | 14 | 81 | 95 | 27.5 |
| Agency for International Development | 14 | | 1 | 1 | 7.1 |
| Architectural and Transportation Barriers Compliance Board | 7 | | | 0 | 0.0 |
| Commission on Civil Rights | 1 | | | 0 | 0.0 |
| CPBSD* | 3 | | | 0 | 0.0 |

* Committee for Purchase from People Who Are Blind or Severely Disabled.

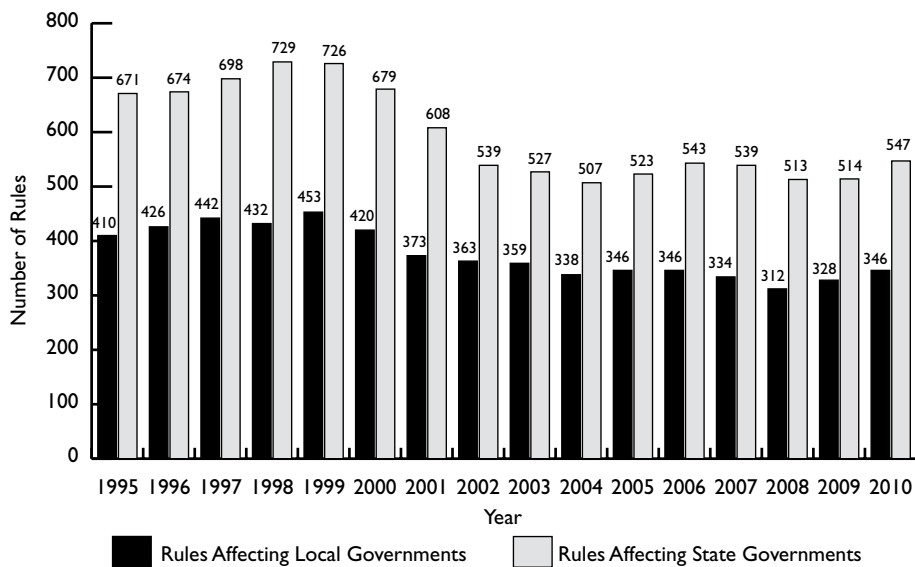
**Table 6. Unified Agenda Entries Affecting Small Business by
Department, Agency, and Commission, December 2009 (continued)**

| | Number Affecting Small Business | | | | % Affecting Small Business |
|--|---------------------------------|-----------------|---------------------|------------|-------------------------------|
| | Total Rules | RFA Required | RFA Not Required | Total | |
| Commodity Futures Trading Commission | 56 | | | 0 | 0.0 |
| Consumer Product Safety Commission | 51 | | | 0 | 0.0 |
| Corporation for National and Community Service | 10 | | | 0 | 0.0 |
| Court Services/Offender Supervision, D.C. | 2 | | | 0 | 0.0 |
| Federal Acquisition Regulation | 85 | 5 | | 5 | 5.9 |
| Equal Employment Opportunity Commission | 7 | | 5 | 5 | 71.4 |
| Farm Credit Administration | 23 | | | 0 | 0.0 |
| Federal Communications Commission | 147 | 106 | 6 | 112 | 76.2 |
| Federal Deposit Insurance Corporation | 21 | 1 | | 1 | 4.8 |
| Federal Energy Regulatory Commission | 36 | | | 0 | 0.0 |
| Federal Housing Finance Agency | 27 | | | 0 | 0.0 |
| Federal Maritime Commission | 4 | | 3 | 3 | 75.0 |
| Federal Mediation and Conciliation Service | 2 | | | 0 | 0.0 |
| Federal Reserve System | 22 | 3 | 5 | 8 | 36.4 |
| Federal Trade Commission | 19 | 1 | 15 | 16 | 84.2 |
| General Services Administration | 34 | 4 | 1 | 5 | 14.7 |
| Institute of Museum and Library Services | 2 | | | 0 | 0.0 |
| National Aeronautics and Space Administration | 26 | | | 0 | 0.0 |
| National Archives and Records Administration | 9 | | | 0 | 0.0 |
| National Credit Union Administration | 24 | | 4 | 4 | 16.7 |
| National Endowment for the Humanities | 4 | | | 0 | 0.0 |
| National Indian Gaming Commission | 9 | | | 0 | 0.0 |
| National Science Foundation | 2 | | | 0 | 0.0 |
| Nuclear Regulatory Commission | 63 | 1 | | 1 | 1.6 |
| Office of Government Ethics | 7 | | | 0 | 0.0 |
| Office of Management and Budget | 7 | | | 0 | 0.0 |
| Office of Personnel Management | 77 | | | 0 | 0.0 |
| Peace Corps | 1 | | | 0 | 0.0 |
| Pension Benefit Guaranty Corporation | 10 | | | 0 | 0.0 |
| Postal Regulatory Commission | 3 | | | 0 | 0.0 |
| Railroad Retirement Board | 1 | | | 0 | 0.0 |
| Recovery Accountability and Transparency Board | 1 | | | 0 | 0.0 |
| Securities and Exchange Commission | 75 | 21 | | 21 | 28.0 |
| Selective Service System | 1 | | | 0 | 0.0 |
| Small Business Administration | 51 | 27 | 12 | 39 | 76.5 |
| Social Security Administration | 63 | | | 0 | 0.0 |
| Surface Transportation Board | 5 | | | 0 | 0.0 |
| TOTAL | 4,225 | 428 | 417 | 845 | 20.0 |

Source: Compiled from "The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 75, No. 243, December 20, 2010; and from online edition at www.reginfo.gov.

Note: RFA = regulatory flexibility analysis.

Figure 13. Rules Affecting State and Local Governments, 1995–2010



Source: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, various years’ editions; and from online edition at <http://www.reginfo.gov>.

small business, as noted in Table 6, stands at 20 percent.

Federal Regulations Affecting 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 impulses for regulatory reform. As a result, Congress passed the Unfunded Mandates Act in 1995 to establish a point of order against such mandates as a means of getting lawmakers to pay closer attention to legislation’s effect on states and localities.

As Figure 13 shows, agencies report that 346 of the 4,225 rules in the 2010 Agenda will affect local governments.³⁸ Over the years since the passage of the Unfunded Mandates Act, overall rules affecting local governments have fallen by 35.1 percent, from 533

in 1994 to 346, although the past two years have brought an uptick, as in other regulatory measures. Figure 13 also shows that the total number of regulatory actions affecting state governments stands at 547, a 6.4-percent increase over 514 in 2009. During the period since passage of the unfunded mandates legislation, the count has dropped to that level from 784 in 1994, a 30.2-percent decline. (For breakdowns of the numbers of rules affecting state and local governments by department and agency over the past several years’ Agendas, see Appendix: Historical Tables, Part G.)

Government Accountability Office Database on Regulations

The various federal reports and databases on regulation serve different purposes. The *Federal Register* shows the aggregate number of proposed and final rules (both those that affect the private sector and those that deal with internal government machinery or programs). The Unified Agenda provides

State and local officials’ realization during the 1990s that their own priorities were being overridden by federal mandates generated impulses for regulatory reform.

Table 7. Government Accountability Office Reports on Major Rules, 1998–2010

| | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Architectural Barriers Compliance Board | | | 1 | | | | 1 | | | | | | |
| Department of Agriculture | 5 | 6 | | 9 | 7 | 4 | 7 | 6 | 8 | 7 | 3 | 12 | 6 |
| Department of Commerce | 1 | 5 | | 2 | | | 1 | | | 2 | 1 | 2 | |
| Department of Defense | 2 | 1 | | 3 | 2 | | | 1 | | | 6 | 4 | 4 |
| Department of Education | | 1 | | | | | | | 2 | 1 | 2 | 6 | 5 |
| Department of Energy | | | 3 | 3 | 1 | 1 | | | | 3 | 3 | 7 | 4 |
| Department of Homeland Security | | | | | | 2 | 2 | 3 | 2 | 4 | 5 | 1 | 3 |
| Department of Housing and Urban Development | | 1 | 2 | 1 | | | 1 | 1 | | | 2 | 1 | 1 |
| Department of Justice | 1 | | | 4 | 3 | | 1 | 1 | 1 | | | | 3 |
| Department of Labor | 2 | | 5 | 3 | 2 | | 1 | 1 | 3 | 3 | 2 | 1 | 6 |
| Department of the Interior | 7 | 6 | 9 | 8 | 7 | 7 | 8 | 6 | 6 | 5 | 10 | 7 | 7 |
| Department of State | | | | | | | | | | | 1 | | 1 |
| Department of Transportation | 1 | 4 | | 3 | 6 | 4 | 5 | 3 | 1 | 3 | 8 | 6 | 5 |
| Department of the Treasury | 1 | | | 1 | | 1 | 1 | | 1 | 1 | 1 | | 4 |
| Department of Veterans Affairs | | | | 3 | 1 | 2 | | 1 | | 1 | | 2 | 2 |
| Emergency Oil and Gas Loan Board | | 1 | | | | | | | | | | | |
| Emergency Steel Guarantee Loan Board | | 1 | | | | | | | | | | | |
| Environmental Protection Agency | 9 | 5 | 20 | 4 | 1 | 3 | 7 | 3 | 8 | 2 | 9 | 3 | 8 |
| Federal Acquisition Regulation | | | | | | | | | | | | | |
| Federal Communications Commission | 16 | 6 | 6 | 3 | 3 | 2 | 4 | 1 | 1 | 2 | 6 | | |
| Federal Emergency Management Agency | | | 2 | 3 | 1 | | | | | | | | |
| Federal Reserve System | | | 1 | 1 | 1 | | 1 | | | | 2 | 6 | 6 |
| Federal Trade Commission | | | 1 | | | | | 1 | | | | | |
| Health and Human Services | 18 | 7 | 17 | 15 | 13 | 17 | 22 | 22 | 16 | 19 | 24 | 17 | 24 |
| National Credit Union Administration | 1 | | | | | | | | | | | | |
| Nuclear Regulatory Commission | 2 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 1 | 2 | 1 |
| Office of Management and Budget | | | | 1 | | | | | | | | | |
| Office of Personnel Management | | | 1 | | | 1 | | | | | | | |
| Pension Benefit Guaranty Corporation | 1 | | | | | | | | | | | | |
| Securities and Exchange Commission | 8 | 3 | 5 | 2 | 2 | 5 | 2 | 4 | 3 | 5 | 7 | 7 | 9 |
| Small Business Administration | 1 | | 1 | 1 | | | 1 | | | | | | |
| Social Security Administration | | 3 | 1 | | | | | 1 | 2 | | 2 | | |
| Federal Election Commission | | | | | | 1 | | | | | | | |
| Consumer Product Safety Commission | | | | | | | | | 1 | | | | |
| Various agencies; HIPAA* implementation | | | | | | | | | | | | | |
| TOTAL | 76 | 51 | 77 | 70 | 51 | 51 | 66 | 56 | 56 | 60 | 95 | 84 | 99 |

Source: Compiled from Government Accountability Office data.

Note: HIPAA = Health Insurance Portability and Accountability Act.

detail of the overall number of rules at various stages in the regulatory pipeline, as well as those with economically significant effects and those affecting small business and state and local governments.

Under the 1996 Congressional Review Act, agencies were required to submit reports to Congress on their “major” rules—typically those costing \$100 million or more. Owing to such reports, which are maintained in a database at the GAO, one can more readily observe which of the thousands of final rules agencies issue each year are major and which agencies are producing the rules.³⁹

The Congressional Review Act gives Congress a window of 60 legislative days in which to review a major rule and, if desired, pass a resolution of disapproval rejecting the rule. But despite the issuance of thousands of rules since the Act’s passage—among them many dozens of major ones—only one has been rejected: the Labor Department’s rule on work-

place repetitive-motion injuries in early 2001. Table 7, derived from the GAO database, depicts the number of final major rule reports issued by agencies through 2010. The 99 rules of 2010 represent the highest number since this tabulation began following passage of the Congressional Review Act. The Department of Health and Human Services, Securities and Exchange Commission, and Environmental Protection Agency are among the most active. The coming years will be instructive on how increased federal spending may continue to affect the generation of major rules.

An October 2010 Heritage Foundation analysis of the Obama administration’s regulatory record isolates the database’s major rules affecting only the private sector, and it further distinguishes between those that are deregulatory and those that are regulatory. That compilation found that 43 major rules were adopted during fiscal year 2010, five of which reduced burdens, for a net increase in costs of \$26.5 billion.⁴⁰

Regulation and the Federal Communications Commission

A pro-regulatory bias remains in fashion at the FCC, despite massive innovations in telecommunications and in customized, consumer-oriented, and user-driven multimedia.

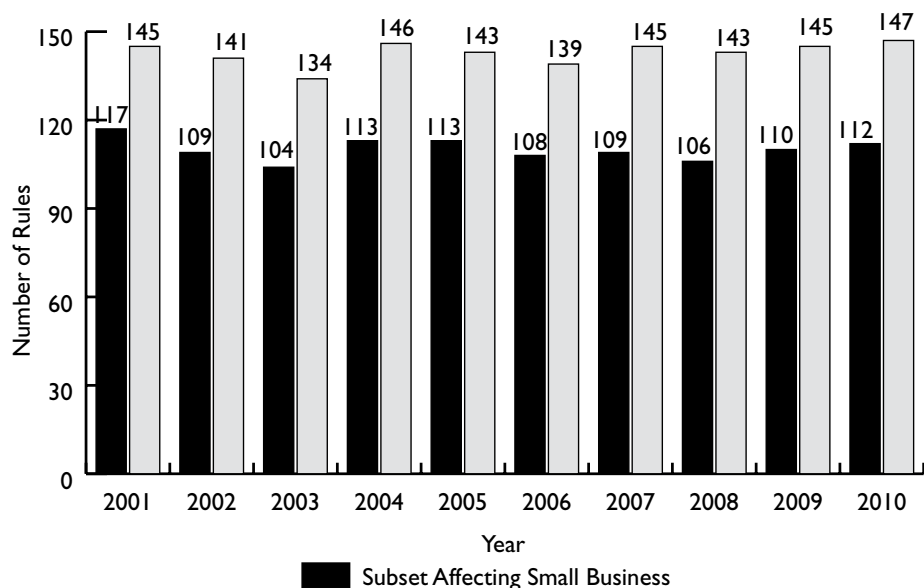
Although by no means the heaviest regulator, the Federal Communications Commission (FCC) is worth singling out for review in today's information economy. (Indeed, the FCC is surpassed in overall number of rules by nine other agencies, and in the number of "economically significant" [\$100 million plus] rules by seven other agencies. See Tables 3 and 5.)

In terms of enforcement, the FCC spent an estimated \$441 million to enforce regulations during FY 2010. (Meanwhile, the Environmental Protection Agency spent vastly more at \$6.02 billion, alone accounting for more than 10 percent of the total expected to be spent by all regulatory agencies.)⁴¹

Of the 4,225 rules in the 2010 Unified Agenda pipeline, 147, or 3.5 percent, were in the works at the FCC. The level of rules from the FCC is up 5.7 percent since 2006 (Figure 14). Rules rose slightly over the past year, from 145 to 147. Also shown in Figure 14 is the subset of FCC rules that register some effect on small business. Since 2006, that category of rules has risen by 3.7 percent, but rules affecting small business have declined by 4 percent since 2001.

A pro-regulatory bias remains in fashion at the FCC, despite massive innovations in telecommunications and in customized, consumer-oriented, and user-driven multimedia—and despite the increasingly obso-

Figure 14. Number of FCC Rules, 2001–2010



Sources: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, various years' editions; and from online edition at <http://www.reginfo.gov>.

lete nature of the FCC's original mandate to police allegedly public airwaves on a radio spectrum characterized by scarcity. Today's vibrant, robust, and duplicative communications markets are not fragile mechanisms requiring fine-tuning by (allegedly impartial) government bodies.⁴² Communications markets do not abuse and harass consumers in a manner requiring top-down rulemaking with respect to every new technological advance.

Nonetheless, the FCC recently has:

- Considered a notice of inquiry to examine the broadband industry practices of the communications sector;⁴³
- Inserted itself into journalism with a "Future of Media" proceeding;⁴⁴ and
- Most recently, in December 2010, issued a final ruling mandating "net neutrality" requirements to the consternation of

many in Congress who had not delegated such authority to the agency.⁴⁵

The FCC has held numerous hearings and workshops on these and other matters. Indeed, far from embracing any hands-off stance—let alone a pro-liberalization agenda—FCC commissioners have occupied themselves with contemplating new rules for multicast must-carry regulation, cable à la carte, media ownership restrictions, "indecentcy," video games, violence portrayal, and wireless net neutrality (which is arguably the real goal in the recent neutrality ruling).

Of the 224 economically significant rules in the works across the entire federal government, seven are from the FCC (see Table 5). Of those seven economically significant FCC rules, all but one are holdovers from earlier years (see Box 1). Such sweeping rulemak-

Today's vibrant, robust, and duplicative communications markets are not fragile mechanisms requiring fine-tuning by governmental bodies.

Box 1. Seven Economically Significant Rules in the Pipeline at the FCC

- Broadband over power line systems (BPL): "To promote the development of BPL systems by removing regulatory uncertainties for BPL operators and equipment manufacturers while ensuring that licensed radio services are protected from harmful interference."
- Processing applications in the Direct Broadcast Satellite (DBS) service; feasibility of reduced orbital spacing for provision of DBS service in the United States.
- Service rules for the 746-764 and 776-794 MHz band ranges, and revisions to Part 27 of the commission's rules: "Adopts service rules for licensing and auction of commercial services in spectrum in the 700-MHz band to be vacated by UHF television licensees."
- The 2000 biennial regulatory review spectrum aggregation limits for Commercial Mobile Radio Services: "The Commission has adopted a final rule in a proceeding reexamining the need for Commercial Mobile Radio Services spectrum aggregation limits."
- Internet Protocol-enabled services: "The notice seeks comment on ways in which the Commission might categorize IP-enabled services for purposes of evaluating the need for applying any particular regulatory requirements. It poses questions regarding the proper allocation of jurisdiction over each category of IP-enabled service. The notice then requests comment on whether the services composing each category constitute 'telecommunications services' or 'information services' under the definitions set forth in the Act. Finally, noting the Commission's statutory forbearance authority and title I ancillary jurisdiction, the notice describes a number of central regulatory requirements (including, for example, those relating to access charges, universal service, E911, and disability accessibility), and asks which, if any, should apply to each category of IP-enabled services."
- FCC Long-Term Actions Amendment of the rules regarding Maritime Automatic Identification Systems.
- Service Rules for the 698-746, 747-762, and 777-792-MHz Band Ranges: "[O]ne of several docketed proceedings involved in the establishment of rules governing wireless licenses in the 698-806 MHz Band (the 700 MHz Band). This spectrum is being vacated by television broadcasters in TV Channels 52-69. It is being made available for wireless services, including public safety and commercial services, as a result of the digital television (DTV) transition. This docket has to do with service rules for the commercial services, and is known as the 700 MHz Commercial Services proceeding."⁴⁶

ings—and the 140 other FCC rules in the Agenda pipeline—present opportunities for either liberalization of telecommunications or avenues for new centralized regulatory oversight and protracted legal battles. Lib-

eralizing communications markets requires a deliberate effort to shift “regulation” from the FCC to the discipline of competitive markets. Today’s debates seem to inadequately reflect that approach.

Liberate to Stimulate

The cost of regulation dwarfs the first \$150 billion economic stimulus package passed in early 2008 under President Bush. A rollback of regulation would constitute the *deregulatory stimulus* that the U.S. economy needs, rather than the spending stimulus it got. A “liberate to stimulate” agenda would offer some certainty and confidence to businesses seeking a foothold in a weakened economy. Proposals like those described next can help achieve that goal.

Steps toward Improving Regulatory Disclosure

Regulatory compliance costs exceed \$1.7 trillion annually and receive too little official scrutiny, so it is not surprising that costs often exceed benefits. Although some regulations’ benefits exceed costs, “net” benefits—or costs—are known for relatively few. Without any definitive regulatory accounting, estimates of overall agency net benefits are questionable, which makes it difficult to know whether society wins or loses as a result of those rules (as well as whether there are problems with such social metrics).⁴⁷

Relevant and available regulatory data should be summarized and publicly disclosed to help create pressures for even better data disclosure. An incremental step would be for Congress to require—or for OMB to initiate—publication of a summary of already available, but scattered, data. Such a summary would perhaps resemble that in *Ten Thousand Commandments* and other compilations. That simple step alone would help transform today’s regulatory hidden tax culture into one characterized by greater openness.

Although regulatory cost disclosure should be a priority, a protracted legislative fight over comprehensive “cost-benefit analysis” should be avoided. Better would be halting Congress’s excessive delegation of legislative power to unelected agency personnel in the first place. That institutional change would force Congress to internalize pressures to make cost-benefit assessments before issuing directives to agencies. Elected representatives will have to assume responsibility and end “regulation without representation” to rein in off-budget regulatory costs, no matter what else is done.

Regulations fall into two broad classes: (a) those that are economically significant (costing more than \$100 million annually) and (b) those that are not. Agencies typically emphasize reporting of economically significant rules, which OMB also tends to emphasize in its assessments of the regulatory state. A problem with this approach is that many rules that technically come in below that threshold can still be very significant in the real-world sense of the term.

Moreover, agencies need not specify whether any or all of their economically significant rules cost only \$100 million—or far more. Redefining economically significant rules to reflect increasing cost tiers would improve disclosure. Agencies could be required to break up their economically significant rules into categories that represent increasing costs. Table 8 presents an alternative that assigns economically significant rules to one of five categories. Agencies could classify their rules either on the basis of cost information that has been provided in the regulatory impact analyses that accompany many eco-

A rollback of regulation would constitute the deregulatory stimulus that the U.S. economy needs, rather than the spending stimulus it got.

Table 8. Possible Breakdown of “Economically Significant” Rules

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

nomically significant rules or on the basis of separate internal or external estimates.

Although modest, any such steps toward greater disclosure could be important. Useful regulatory information is available, but it is often difficult to compile. The Agenda could be made more user-friendly. Today, to learn about regulatory trends and to 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, multi-column print, or they must compile results from online searches. As part of this process, data from the Agenda could be officially summarized in charts each year, perhaps 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 Box 2. Information could be added to the report as deemed necessary—for instance, success or failure of any special

Box 2. 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
- Number or percentage of rules affecting small business and state and local governments
- Number or percentage of rules featuring numerical cost estimates
- Tallies of existing cost estimates, with subtotals by agencies and with grand total
- Number or percentage of rules lacking cost estimates
- Short explanation of lack of cost estimates, where applicable
- Percentage of rules reviewed by the Office of Management and Budget and action taken
- Analysis of the *Federal Register*: number of pages, plus proposed and final rule breakdowns by agency
- Number of major rules reported on by the Government Accountability Office in its database of reports on regulations
- Rules up for 10-year review (under Section 610 of the Regulatory Flexibility Act)
- Most active rulemaking agencies
- Rules that are deregulatory rather than regulatory
- Rules that affect internal agency procedures alone
- Rollover: number of rules new to the Unified Agenda, plus number carried over from previous years
- Number or percentage of rules required by statute versus discretionary rules
- Number or percentage of rules facing statutory or judicial deadlines
- Rules for which the weighing of costs and benefits is statutorily prohibited

initiative, such as any “reinventing government” or regulatory reform effort. Providing five-year historical data would also enhance the Agenda’s usefulness. Paradoxically, one of the virtues of a regulatory report card is that it would reveal more clearly what we *do not* comprehend about the regulatory state—something quite useful to know.

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 policy makers take the growth of the regulatory state seriously.

End Regulation without Representation

Years of unbudgeted growth of the federal regulatory state merit concern when no one can claim that regulatory benefits exceed costs. But agencies are not the only culprits. Congress regularly shirks its constitutional duty to make the tough calls. It delegates considerable lawmaking power to agencies and then fails to ensure that they deliver benefits that exceed costs.⁴⁸ 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, because the only measure of agency productivity—other than growth in their budgets and number of employees⁴⁹—is the number of regulations they produce. One need not waste time blaming agencies for carrying out the very regulating they were set up to do in the first place. It would be better to point a finger at Congress. For perspective, consider that regulatory agencies issued 3,573 final rules, whereas the 111th Congress passed and President Obama signed into law a comparatively low 217 bills in calendar year 2010.⁵⁰ (However, the number of laws passed did increase from 2009’s 125.)

As noted, regulatory agencies are at work on 4,225 rules. Agencies never answer to voters, so the unelected are doing a sizable bulk of U.S. lawmaking. An annual regulatory report card is a start but not a complete answer. Regulatory reforms that rely on agencies policing themselves will not rein in the regulatory state. Rather, making Congress directly answerable to voters for the costs that agencies impose on the public would best promote accountable regulation. The way to control regulation is to require Congress to vote on agencies’ final rules before such rules become binding on the public.

Congressional accountability for regulatory costs assumes new importance in today’s era of gargantuan deficits. If Congress’s alternatives are to spend or to issue new regulations, then concern about mounting national debt invites Congress to regulate rather than increase government spending to accomplish its ends. For example, suppose Congress wanted to create a job-training program or otherwise to fulfill some promise to voters. Funding a job-training program would require approval of a new appropriation for the Department of Labor, which would appear in the federal budget—and increase the deficit. Instead, Congress could simply pass a law requiring Fortune 500 companies to fund job training, to be carried out through new regulations issued by the Labor Department. The latter option would add little to federal spending but would still let Congress take credit for the program. By regulating instead of spending, government can expand almost indefinitely without explicitly taxing anybody one extra penny.

Making Congress accountable for regulation as well as for legislation is a prerequisite for control of the off-budget regulatory state. 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 it would become bogged down in approving agency rules, Congress could vote on agency regulations in bundles. In addition, congressional approval of new regulation could be given by

Congress regularly shirks its constitutional duty to make the tough calls. It delegates considerable lawmaking power to agencies, and then fails to ensure that they deliver benefits that exceed costs.

voice vote, signifying unanimity, rather than by tabulated roll call vote.

Whatever improvements in disclosure might be made, congressional—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 far more accountable to voters.

Appendix of Historical Tables

Part A. Federal Register Page History, 1936–2010

| Year | Unadjusted Page Count | Jumps/Blanks | Adjusted Page Count |
|-------------|------------------------------|---------------------|----------------------------|
| 1936 | 2,620 | 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 |

| Year | Unadjusted Page Count | Jumps/Blanks | Adjusted Page Count |
|-------------|------------------------------|---------------------|----------------------------|
| 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 | 67,702 | 3,264 | 64,438 |
| 2002 | 80,332 | 4,726 | 75,606 |
| 2003 | 75,798 | 4,529 | 71,269 |
| 2004 | 78,852 | 3,177 | 75,675 |
| 2005 | 77,777 | 3,907 | 73,870 |
| 2006 | 78,724 | 3,787 | 74,937 |
| 2007 | 74,408 | 2,318 | 72,090 |
| 2008 | 80,700 | 1,265 | 79,435 |
| 2009 | 69,644 | 1,046 | 68,598 |
| 2010 | 82,480 | 1,075 | 81,405 |

Part B. Number of Documents in the *Federal Register*, 1976–2010

| 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 |
| 2002 | 4,167 | 2,635 | 26,250 | 33,052 |
| 2003 | 4,148 | 2,538 | 25,168 | 31,854 |
| 2004 | 4,101 | 2,430 | 25,846 | 32,377 |
| 2005 | 3,943 | 2,257 | 26,020 | 32,220 |
| 2006 | 3,718 | 2,346 | 25,429 | 31,493 |
| 2007 | 3,595 | 2,308 | 24,784 | 30,687 |
| 2008 | 3,830 | 2,475 | 25,574 | 31,879 |
| 2009 | 3,503 | 2,044 | 25,218 | 30,765 |
| 2010 | 3,573 | 2,439 | 26,543 | 32,555 |

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

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

Part C. Unified Agenda Rules History, 1983–2010

Total Number of Rules Under Construction

| 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 | 2003 | December | 4,266 |
| 1985 | April | 4,265 | 1992 | April | 4,186 | 2004 | December | 4,083 |
| | October | 4,131 | | October | 4,909 | 2005 | October | 4,062 |
| 1986 | April | 3,961 | 1993 | April | 4,933 | 2006 | December | 4,052 |
| | October | 3,983 | | October | 4,950 | 2007 | December | 3,882 |
| 1987 | April | 4,038 | 1994 | April | 5,105 | 2008 | December | 4,004 |
| | October | 4,005 | | October | 5,119 | 2009 | December | 4,043 |
| 1988 | April | 3,941 | 1995 | April | 5,133 | 2010 | December | 4,225 |
| | October | 4,017 | | October | 4,735 | | | |
| 1989 | April | 4,003 | 1996 | April | 4,570 | Sources: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” <i>Federal Register</i> , various years’ editions; and from online edition at http://www.reginfo.gov . | | |
| | 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 | | | |

Part D. Agenda Rules History by Department and Agency, 1999–2009 (continued on next page)

| | 2010 | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 | 2001 | 2000 | 1999 |
|--|------|------|------|------|------|------|------|------|------|------|------|
| Department of Agriculture | 327 | 374 | 290 | 311 | 292 | 279 | 323 | 314 | 312 | 327 | 345 |
| Department of Commerce | 300 | 325 | 303 | 302 | 296 | 273 | 300 | 270 | 342 | 390 | 366 |
| Department of Defense | 133 | 109 | 131 | 143 | 163 | 126 | 108 | 87 | 93 | 117 | 121 |
| Department of Education | 22 | 17 | 13 | 16 | 9 | 11 | 13 | 14 | 8 | 21 | 32 |
| Department of Energy | 85 | 54 | 47 | 63 | 61 | 50 | 66 | 53 | 61 | 67 | 64 |
| Department of Health and Human Services | 231 | 236 | 259 | 257 | 249 | 233 | 219 | 219 | 277 | 308 | 300 |
| Department of Homeland Security | 237 | 252 | 267 | 280 | 295 | 314 | 338 | | | | |
| Department of Housing and Urban Development | 60 | 73 | 86 | 92 | 90 | 103 | 109 | 100 | 89 | 113 | 128 |
| Department of the Interior | 277 | 287 | 264 | 305 | 303 | 287 | 295 | 298 | 423 | 418 | 309 |
| Department of Justice | 121 | 138 | 140 | 139 | 124 | 125 | 122 | 249 | 229 | 202 | 201 |
| Department of Labor | 104 | 96 | 94 | 93 | 93 | 88 | 89 | 102 | 141 | 156 | 151 |
| Department of State | 18 | 27 | 28 | 28 | 24 | 21 | 15 | 41 | 32 | 21 | 27 |
| Department of Transportation | 230 | 200 | 199 | 215 | 227 | 301 | 365 | 543 | 511 | 536 | 539 |
| Department of the Treasury | 528 | 521 | 545 | 501 | 514 | 532 | 530 | 513 | 458 | 450 | 400 |
| Department of Veterans Affairs | 78 | 80 | 65 | 77 | 76 | 79 | 87 | 104 | 164 | 141 | 130 |
| Advisory Council on Historic Preservation | | 0 | 0 | 0 | | 1 | 1 | 1 | 0 | 1 | 1 |
| Agency for International Development | 12 | 7 | 10 | 8 | 10 | 8 | 8 | 7 | 6 | 6 | 5 |
| Architectural and Transportation Barriers Compliance Board | 6 | 5 | 5 | 4 | 3 | 4 | 4 | 5 | 5 | 7 | 8 |
| Commission on Civil Rights | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| CPBSD* | 3 | 3 | 5 | 6 | 6 | 5 | 0 | 0 | 0 | 0 | 0 |
| Corporation for National and Community Service | 7 | 7 | 9 | 11 | 11 | 8 | 9 | 16 | 9 | 6 | 4 |

*Committee for Purchase from People Who Are Blind or Severely Disabled.

Part D. Agenda Rules History by Department and Agency, 1998–2009 (continued)

| | 2010 | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 | 2001 | 2000 | 1999 |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Court Services/Offender Supervision, D.C. | 2 | 2 | 2 | 1 | 1 | 1 | 3 | 7 | 5 | 0 | 0 |
| Environmental Protection Agency | 331 | 330 | 336 | 372 | 400 | 416 | 417 | 409 | 416 | 449 | 456 |
| Equal Employment Opportunity Commission | 7 | 5 | 7 | 8 | 6 | 3 | 4 | 4 | 3 | 6 | 9 |
| Federal Council on the Arts and Humanities | | | | | | | | | | | |
| Federal Mediation and Conciliation Service | 2 | 1 | 1 | 1 | 2 | 2 | 3 | 4 | 3 | 2 | 1 |
| Federal Emergency Management Agency | | 2 | 0 | 0 | 0 | 0 | 0 | 24 | 30 | 26 | 33 |
| General Services Administration | 49 | 0 | 26 | 34 | 33 | 27 | 37 | 40 | 35 | 40 | 51 |
| National Aeronautics and Space Administration | 32 | 54 | 11 | 15 | 20 | 27 | 34 | 13 | 17 | 11 | 7 |
| National Archives and Records Administration | 7 | 19 | 15 | 21 | 17 | 22 | 19 | 20 | 19 | 21 | 21 |
| Institute of Museum and Library Services | 1 | 10 | 1 | 1 | 4 | 3 | 6 | 5 | 5 | 4 | 1 |
| National Endowment for the Arts | 2 | 2 | 2 | 2 | 2 | 2 | 6 | 5 | 5 | 5 | 5 |
| National Endowment for the Humanities | 3 | 3 | 3 | 3 | 3 | 3 | 8 | 9 | 8 | 7 | 6 |
| National Science Foundation | 3 | 3 | 0 | 2 | 3 | 3 | 2 | 2 | 3 | 5 | 4 |
| Office of Federal Housing Enterprise Oversight | | 3 | 9 | 8 | 6 | 4 | 4 | 7 | 9 | 5 | 5 |
| Office of Government Ethics | 7 | 10 | 9 | 8 | 7 | 7 | 9 | 10 | 11 | 11 | 12 |
| Office of Management and Budget | 7 | 6 | 1 | 2 | 2 | 3 | 4 | 4 | 5 | 5 | 9 |
| Office of Personnel Management | 77 | 2 | 75 | 93 | 94 | 103 | 90 | 72 | 91 | 110 | 112 |
| Panama Canal Commission | | 80 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| Peace Corps | 1 | 0 | 6 | 6 | 5 | 4 | 9 | 9 | 9 | 8 | 5 |
| Pension Benefit Guaranty Corporation | 10 | 7 | 12 | 13 | 9 | 6 | 4 | 6 | 11 | 10 | 12 |
| Railroad Retirement Board | 1 | 12 | 2 | 6 | 5 | 6 | 11 | 13 | 13 | 19 | 16 |
| Selective Service System | 1 | 3 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Small Business Administration | 39 | 1 | 28 | 32 | 34 | 29 | 33 | 40 | 37 | 41 | 35 |
| Social Security Administration | 58 | 26 | 63 | 53 | 68 | 59 | 64 | 63 | 85 | 82 | 67 |
| Tennessee Valley Authority | | 64 | 0 | 0 | 0 | 0 | 2 | 2 | 3 | 3 | 1 |
| Federal Acquisition Regulation | 55 | 44 | 36 | 42 | 44 | 45 | 49 | 43 | 48 | 56 | 49 |
| Commodity Futures Trading Commission | 32 | 25 | 19 | 14 | 11 | 15 | 15 | 19 | 30 | 21 | 19 |
| Consumer Product Safety Commission | 39 | 31 | 19 | 24 | 18 | 18 | 20 | 20 | 21 | 20 | 17 |
| Farm Credit Administration | 25 | 19 | 12 | 19 | 20 | 20 | 21 | 14 | 17 | 17 | 19 |
| Farm Credit System Insurance Corporation | 1 | 1 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 3 | 3 |
| Federal Communications Commission | 145 | 143 | 145 | 139 | 143 | 146 | 134 | 141 | 145 | 137 | 128 |
| Federal Energy Regulatory Commission | 37 | 39 | 41 | 47 | 35 | 23 | 21 | 19 | 8 | 18 | 20 |
| Federal Housing Finance Agency | 30 | | | | | | | | | | |
| Federal Housing Finance Board | | 10 | 3 | 8 | 8 | 9 | 11 | 9 | 12 | 12 | 18 |
| Federal Maritime Commission | 6 | 3 | 4 | 3 | 5 | 7 | 11 | 8 | 7 | 9 | 9 |
| Federal Reserve System | 26 | 3 | 20 | 13 | 17 | 18 | 18 | 24 | 32 | 33 | 22 |
| Federal Trade Commission | 20 | 18 | 14 | 16 | 15 | 14 | 12 | 10 | 13 | 14 | 16 |
| National Credit Union Administration | 24 | 17 | 24 | 29 | 27 | 26 | 27 | 20 | 22 | 16 | 26 |
| Federal Deposit Insurance Corporation | 21 | 22 | 18 | 24 | 16 | 20 | 17 | 17 | 22 | 26 | 25 |
| National Indian Gaming Commission | 17 | 19 | 19 | 16 | 15 | 14 | 14 | 16 | 15 | 14 | 14 |
| National Labor Relations Board | | 18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nuclear Regulatory Commission | 61 | 0 | 53 | 45 | 49 | 42 | 45 | 39 | 42 | 55 | 57 |
| Office of Special Counsel | | 54 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 2 |
| Presidio Trust | | 0 | 0 | 0 | 2 | 2 | 1 | 2 | 2 | 3 | 3 |
| Securities and Exchange Commission | 74 | 72 | 76 | 71 | 64 | 79 | 71 | 73 | 80 | 77 | 80 |
| Surface Transportation Board | 5 | 6 | 4 | 7 | 3 | 4 | 5 | 5 | 4 | 3 | 3 |
| Udall Institute for Environmental Conflict Resolution | | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 3 | 3 | 3 |
| Postal Regulatory Commission | 2 | 2 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Recovery Accountability and Transparency Board | 3 | | | | | | | | | | |
| Privacy and Civil Liberties Oversight Board | | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 4,043 | 4,004 | 3,882 | 4,052 | 4,062 | 4,083 | 4,266 | 4,187 | 4,509 | 4,699 | 4,538 |

Sources: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, various years’ editions; and from online edition at <http://www.reginfo.gov>.

Part E. Listing of 224 “Economically Significant” Rules, 2010

From the Regulatory Plan (64 rules)

Department of Agriculture

1. USDA/RHS, Final Rule Stage, Multi-Family Housing (MFH) Reinvention, 0575-AC13
2. USDA/FSIS, Proposed Rule Stage, Egg Products Inspection Regulations, 0583-AC58
3. USDA/FSIS, Proposed Rule Stage, New Poultry Slaughter Inspection, 0583-AD32
4. USDA/FSIS, Proposed Rule Stage, Mandatory Inspection of Catfish and Catfish Products, 0583-AD36
5. USDA/FSIS, Final Rule Stage, Performance Standards for the Production of Processed Meat and Poultry Products; Control of *Listeria Monocytogenes* in Ready-to-Eat Meat and Poultry Products, 0583-AC46
6. USDA/FSIS, Final Rule Stage, Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products, 0583-AC60
7. USDA/FNS, Proposed Rule Stage, Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008, 0584-AD87
8. USDA/FNS, Proposed Rule Stage, Supplemental Nutrition Assistance Program: Farm Bill of 2008 Retailer Sanctions, 0584-AD88
9. USDA/FNS, Final Rule Stage, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages, 0584-AD77

Department of Defense

10. DOD/DODOASHA, Proposed Rule Stage, TRICARE; Reimbursement of Sole Community Hospitals 0720-AB41
11. DOD/OS, Final Rule Stage, Voluntary Education Programs, 0790-AI50

Department of Education

12. ED/OPE, Proposed Rule Stage, Title IV of the Higher Education Act of 1965, as Amended, 1840-AD05
13. ED/OPE, Final Rule Stage, Program Integrity: Gainful Employment—Measures, 1840-AD06

Department of Energy

14. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners, 1904-AA89

15. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Residential Central Air Conditioners and Heat Pumps, 1904-AB47
16. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Fluorescent Lamp Ballasts, 1904-AB50
17. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Residential Furnaces, 1904-AC06
18. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Manufactured Housing, 1904-AC11
19. DOE/EE, Final Rule Stage, Energy Efficiency Standards for Residential Refrigerators, Refrigerator-Freezers, and Freezers, 1904-AB79

Department of Health and Human Services

20. HHS/FDA, Proposed Rule Stage, Electronic Submission of Data from Studies Evaluating Human Drugs and Biologics, 0910-AC52
21. HHS/FDA, Proposed Rule Stage, Unique Device Identification, 0910-AG31
22. HHS/FDA, Proposed Rule Stage, Cigarette Warning Label Statements, 0910-AG41
23. HHS/FDA, Proposed Rule Stage, Food Labeling: Nutrition Labeling for Food Sold in Vending Machines, 0910-AG56
24. HHS/FDA, Proposed Rule Stage, Food Labeling: Nutrition Labeling of Standard Menu Items in Chain Restaurants, 0910-AG57
25. HHS/FDA, Final Rule Stage, Medical Device Reporting; Electronic Submission Requirements, 0910-AF86
26. HHS/CMS, Proposed Rule Stage, Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and FY 2012 Rates and to the Long-Term Care Hospital PPS and RY 2012 Rates (CMS-1518-P), 0938-AQ24
27. HHS/CMS, Proposed Rule Stage, Revisions to Payment Policies under the Physician Fee Schedule and Part B for Contract Year 2012 (CMS-1524-P), 0938-AQ25
28. HHS/CMS, Proposed Rule Stage, Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2012 (CMS-1525-P), 0938-AQ26
29. HHS/AOA, Proposed Rule Stage, Community Living Assistance Services and Supports Enrollment and Eligibility Rules under the Affordable Care Act, 0985-AA07
30. HHS/OS, Final Rule Stage, Modifications to the HIPAA Privacy, Security, and Enforcement Rules under the Health Information Technology for Economic and Clinical Health Act, 0991-AB57

Department of Homeland Security

31. DHS/OS, Final Rule Stage, Collection of Alien Biometric Data upon Exit from the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT), 1601-AA34
32. DHS/USCG, Proposed Rule Stage, Updates to Maritime Security, 1625-AB38
33. DHS/USCG, Final Rule Stage, Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters, 1625-AA32
34. DHS/USCBP, Final Rule Stage, Importer Security Filing and Additional Carrier Requirements, 1651-AA70
35. DHS/USCBP, Final Rule Stage, Changes to the Visa Waiver Program to Implement the Electronic System for Travel Authorization (ESTA) Program, 1651-AA72
36. DHS/TSA, Proposed Rule Stage, Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program, 1652-AA53

Department of Labor

37. DOL/EBSA, Proposed Rule Stage, Definition of "Fiduciary," 1210-AB32
38. DOL/OSHA, Prerule Stage, Infectious Diseases, 1218-AC46
39. DOL/OSHA, Prerule Stage, Injury and Illness Prevention Program, 1218-AC48
40. DOL/OSHA, Proposed Rule Stage, Occupational Exposure to Crystalline Silica, 1218-AB70
41. DOL/OSHA, Final Rule Stage, Hazard Communication, 1218-AC20

Department of Transportation

42. DOT/FAA, Proposed Rule Stage, Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers, 2120-AJ00
43. DOT/FAA, Final Rule Stage, Flight and Duty Time Limitations and Rest Requirements, 2120-AJ58
44. DOT/FMCSA, Proposed Rule Stage, Carrier Safety Fitness Determination, 2126-AB11
45. DOT/FMCSA, Proposed Rule Stage, Hours of Service, 2126-AB26
46. DOT/NHTSA, Prerule Stage, Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2017 and Beyond, 2127-AK79
47. DOT/NHTSA, Proposed Rule Stage, Federal Motor Vehicle Safety Standard No. 111, Rear-View Mirrors, 2127-AK43

48. DOT/NHTSA, Proposed Rule Stage, Commercial Medium- and Heavy-Duty On-Highway Vehicles and Work Truck Fuel Efficiency Standards, 2127-AK74
49. DOT/NHTSA, Final Rule Stage, Ejection Mitigation, 2127-AK23
50. DOT/FRA, Proposed Rule Stage, Hours of Service: Passenger Train Employees, 2130-AC15

Environmental Protection Agency

51. EPA/WATER, Proposed Rule Stage, Criteria and Standards for Cooling Water Intake Structures, 2040-AE95
52. EPA/SWER, Proposed Rule Stage, Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry, 2050-AG61
53. EPA/AR, Proposed Rule Stage, Review of the National Ambient Air Quality Standards for Carbon Monoxide, 2060-AI43
54. EPA/AR, Proposed Rule Stage, Review of the National Ambient Air Quality Standards for Particulate Matter, 2060-AO47
55. EPA/AR, Proposed Rule Stage, Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur, 2060-AO72
56. EPA/AR, Proposed Rule Stage, National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units, 2060-AP52
57. EPA/AR, Proposed Rule Stage, Control of Greenhouse Gas Emissions from Medium- and Heavy-Duty Vehicles, 2060-AP61
58. EPA/AR, Proposed Rule Stage, Review of the National Ambient Air Quality Standards for Lead, 2060-AQ44
59. EPA/AR, Final Rule Stage, National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers, 2060-AM44
60. EPA/AR, Final Rule Stage, Transport Rule (CAIR Replacement Rule), 2060-AP50
61. EPA/AR, Final Rule Stage, Reconsideration of the 2008 Ozone Primary and Secondary National Ambient Air Quality Standards, 2060-AP98
62. EPA/AR, Final Rule Stage, National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, 2060-AQ25
63. EPA/OCSPP, Final Rule Stage, Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program, 2070-AJ57

Consumer Product Safety Commission

64. CPSC, Final Rule Stage, Testing, Certification, and Labeling of Certain Consumer Products, 3041-AC71

From the Unified Agenda (160 additional rules)

Department of Agriculture

65. USDA/FSA, Proposed Rule Stage, Sugar Program, 0560-AH86
66. USDA/FSA, Final Rule Stage, Emergency Conservation Program, 0560-AH43
67. USDA/FSA, Final Rule Stage, Conservation Reserve Program, 0560-AH80
68. USDA/FSA, Completed Actions, Biomass Crop Assistance Program, 0560-AH92
69. USDA/NRCS, Final Rule Stage, Environmental Quality Incentives Program, 0578-AA45
70. USDA/NRCS, Completed Actions, Conservation Stewardship Program, 0578-AA43
71. USDA/FS, Proposed Rule Stage, Special Areas; State-Specific Inventoried Roadless Area Management: Colorado, 0596-AC74

Department of Commerce

72. DOC/BIS, Long-Term Actions, Imposition of License Requirement for Exports and Reexports of Missile Technology (MT)—Controlled Items to Canada, 0694-AC48

Department of Defense

73. DOD/DODOASHA, Completed Actions, TRICARE; Relationship between the TRICARE Program and Employer-Sponsored Group Health Coverage, 0720-AB17
74. DOD/DODOASHA, Completed Actions, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE: Inclusion of TRICARE Retail Pharmacy Program in Federal Procurement of Pharmaceuticals, 0720-AB45
75. DOD/OS, Completed Actions, Homeowners Assistance Program (HAP), 0790-AI58
76. DOD/OS, Completed Actions, Retroactive Stop Loss Special Pay Compensation, 0790-AI59

Department of Education

77. ED/OPE, Completed Actions, High School Equivalency Program and College Assistance Migrant Program, the

- Federal TRIO Programs, and Gaining Early Awareness, and Readiness for Undergraduate Program, 1840-AD01
78. ED/OPE, Completed Actions, Program Integrity Issues, 1840-AD02

Department of Energy

79. DOE/ENDEP, Final Rule Stage, Advanced Technology Vehicles Manufacturing Incentive Program, 1901-AB25
80. DOE/EE, Prerule Stage, Energy Efficiency Standards for Electric Motors, 1904-AC14
81. DOE/EE, Prerule Stage, Energy Conservation Standards for Commercial Refrigeration Equipment, 1904-AC19
82. DOE/EE, Prerule Stage, Energy Conservation Standards for High-Intensity Discharge Lamps, 1904-AC36
83. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Battery Chargers and External Power Supplies, 1904-AB57
84. DOE/EE, Proposed Rule Stage, Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers, 1904-AB86
85. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Metal Halide Lamp Fixtures, 1904-AC00
86. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Microwave Ovens (Standby and Off Mode), 1904-AC07
87. DOE/EE, Final Rule Stage, Energy Conservation Standards for Residential Clothes Washers, 1904-AB90
88. DOE/EE, Long-Term Actions, Energy Conservation Standards for Televisions, 1904-AC20
89. DOE/EE, Long-Term Actions, Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors, 1904-AC28
90. DOE/EE, Completed Actions, Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment and Water Heaters, 1904-AA90

Department of Health and Human Services

91. HHS/FDA, Proposed Rule Stage, Over-the-Counter (OTC) Drug Review—Sunscreen Products, 0910-AF43
92. HHS/FDA, Proposed Rule Stage, Process Controls for Animal Feed Ingredients and Mixed Animal Feed, 0910-AG10
93. HHS/FDA, Proposed Rule Stage, Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products, 0910-AG12
94. HHS/FDA, Proposed Rule Stage, Electronic Distribution of Content of Labeling for Human Prescription Drug and Biological Products, 0910-AG18

95. HHS/FDA, Proposed Rule Stage, Cigars Subject to the Family Smoking Prevention and Tobacco Control Act, 0910-AG38
96. HHS/FDA, Long-Term Actions, Current Good Manufacturing Practice in Manufacturing, Packing, Labeling, or Holding Operations for Dietary Supplements, 0910-AB88
97. HHS/FDA, Long-Term Actions, Produce Safety Regulation, 0910-AG35
98. HHS/FDA, Long-Term Actions, Modernization of the Current Food Good Manufacturing Practices Regulation, 0910-AG36
99. HHS/FDA, Completed Actions, Use of Ozone-Depleting Substances; Removal of Essential Use Designations (Flunisolide, Triamcinolone, Metaproterenol, Pirbuterol, Albuterol, and Ipratropium in Combination, Cromolyn, and Nedocromil), 0910-AF93
100. HHS/FDA, Completed Actions, Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents, 0910-AG33
101. HHS/CDC, Proposed Rule Stage, Possession, Use, and Transfer of Select Agents and Toxins: 1918 Influenza, 0920-AA30
102. HHS/CDC, Proposed Rule Stage, Control of Communicable Diseases: Foreign and Possessions; Proposed Revision of CDC Etiological Agents Importation Regulations, 0920-AA37
103. HHS/CDC, Final Rule Stage, Control of Communicable Diseases: Foreign and Possessions, 0920-AA12
104. HHS/CDC, Final Rule Stage, Control of Communicable Diseases: Interstate, 0920-AA22
105. HHS/CDC, Final Rule Stage, Possession, Use, and Transfer of Select Agents and Toxins (Sars-CoV), 0920-AA31
106. HHS/CDC, Final Rule Stage, Possession, Use, and Transfer of Select Agents and Toxins: Chapare Virus, 0920-AA32
107. HHS/CMS, Proposed Rule Stage, Home and Community-Based Services (HCBS) State Plan Services Program (CMS-2249-P2), 0938-AO53
108. HHS/CMS, Proposed Rule Stage, Medicare Program; Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs (CMS-4144-F), 0938-AQ00
109. HHS/CMS, Proposed Rule Stage, Use of Recovery Audit Contractors (CMS-6034-P), 0938-AQ19
110. HHS/CMS, Proposed Rule Stage, Changes to the ESRD Prospective Payment System for CY 2012 (CMS-1577-P), 0938-AQ27
111. HHS/CMS, Proposed Rule Stage, Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2012 (CMS-1349-P), 0938-AQ28
112. HHS/CMS, Proposed Rule Stage, Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2012 (CMS-1351-P), 0938-AQ29
113. HHS/CMS, Proposed Rule Stage, Home Health Prospective Payment System Refinements and Rate Update for CY 2012 (CMS-1353-P), 0938-AQ30
114. HHS/CMS, Proposed Rule Stage, Federal Funding for Medicaid Eligibility Determination and Enrollment Activities (CMS-2346-P), 0938-AQ53
115. HHS/CMS, Final Rule Stage, Optional State Plan Case Management Services (CMS-2237-F), 0938-AO50
116. HHS/CMS, Final Rule Stage, Children's Health Insurance Program (CHIP); Allotment Methodology and States' Fiscal Year 2009 CHIP Allotments (CMS-2291-F), 0938-AP53
117. HHS/CMS, Final Rule Stage, Revisions to Payment Policies under the Physician Fee Schedule and Part B for CY 2011 (CMS-1503-C), 0938-AP79
118. HHS/CMS, Final Rule Stage, Part B Monthly Actuarial Rates, Monthly Premium Rates, and Annual Deductible Beginning January 1, 2011 (CMS-8042-N), 0938-AP81
119. HHS/CMS, Final Rule Stage, Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2011 (CMS-1504-C), 0938-AP82
120. HHS/CMS, Final Rule Stage, Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for CY 2011 (CMS-8040-N), 0938-AP86
121. HHS/CMS, Final Rule Stage, Additional Screening, Application Fees, and Temporary Moratoria for Providers and Suppliers (CMS-6028-F), 0938-AQ20
122. HHS/CMS, Final Rule Stage, HIPAA Mental Health Parity and Addiction Equity Act of 2008 Amendments (CMS-4140-F), 0938-AQ52
123. HHS/CMS, Completed Actions, End Stage Renal Disease Bundled Payment System (CMS-1418-F), 0938-AP57
124. HHS/CMS, Completed Actions, Revisions to the Medicare Advantage and Medicare Prescription Drug Benefit Programs for CY 2011 (CMS-4085-F), 0938-AP77
125. HHS/CMS, Completed Actions, Electronic Health Record (EHR) Incentive Program (CMS-0033-F), 0938-AP78
126. HHS/CMS, Completed Actions, Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System, 0938-AP80

127. HHS/CMS, Completed Actions, Inpatient Psychiatric Facility Prospective Payment System—Update for Rate Year Beginning July 1, 2010 (RY 2011) (CMS-1424-N), 0938-AP83
128. HHS/CMS, Completed Actions, Hospice Wage Index for FY 2011 (CMS-1523-NC), 0938-AP84
129. HHS/CMS, Completed Actions, Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2011 (CMS-1338-N), 0938-AP87
130. HHS/CMS, Completed Actions, Home Health Prospective Payment System Refinements and Rate Update for CY 2011 (CMS-1510-F), 0938-AP88
131. HHS/CMS, Completed Actions, Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2011 (CMS-1344-N), 0938-AP89
132. HHS/CMS, Completed Actions, Hospital IPPS for Acute Care Hospitals and FY 2010 Rates and to the Long-Term Care Hospital PPS and Rate Year 2010 Rates (CMS-1406-N), 0938-AQ03
133. HHS/CMS, Completed Actions, Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act, 0938-AQ07
134. HHS/CMS, Completed Actions, Medicare Program; Changes to the Hospital Outpatient Prospective Payment System for CY 2010, Changes to the Ambulatory Surgical Center Payment System for CY 2010, and Extension of Payment under Part B, 0938-AQ08
135. HHS/OCIIO, Proposed Rule Stage, Requirements to Implement American Health Benefit Exchanges and Other Provisions of the Affordable Care Act, 0950-AA02
136. HHS/OCIIO, Proposed Rule Stage, Public Use Files of Health Plan Data, 0950-AA04
137. HHS/OCIIO, Final Rule Stage, Medical Loss Ratios, 0950-AA06
138. HHS/OCIIO, Long-Term Actions, Preexisting Condition Exclusions, Lifetime and Annual Limits, Prohibition on Discrimination and Patient Protections, 0950-AA00
139. HHS/OCIIO, Long-Term Actions, Pre-Existing Condition Insurance Plan, 0950-AA05
140. HHS/OCIIO, Long-Term Actions, Preventive Services under the Affordable Care Act, 0950-AA09
141. HHS/OCIIO, Long-Term Actions, Early Retiree Reinsurance Program, 0950-AA12
142. HHS/OCIIO, Long-Term Actions, Dependent Coverage of Children to Age 26 under the Patient Protection and Affordable Care Act, 0950-AA14
143. HHS/OCIIO, Long-Term Actions, Status as a Grandfathered Health Plan under the Affordable Care Act, 0950-AA17
144. HHS/OS, Completed Actions, Requirements for Group Health Plans and Health Insurance Issuers Relating to Preexisting Condition Exclusions, Lifetime and Annual Limits, Rescissions and Patient Protections, 0991-AB69
145. HHS/OS, Completed Actions, Group Health Plans and Health Insurance Issuers Relating to Internal Claims and Appeals and External Review Processes under the Patient Protection and Affordable Care Act, 0991-AB70
146. HHS/OS, Completed Actions, Pre-Existing Condition Insurance Plan Program, 0991-AB71

Department of Homeland Security

147. DHS/USCIS, Final Rule Stage, Application Process for Replacing Forms I-551 without an Expiration Date, 1615-AB36
148. DHS/USCIS, Completed Actions, U.S. Citizenship and Immigration Services Fee Schedule, 1615-AB80
149. DHS/USCG, Proposed Rule Stage, Commercial Fishing Industry Vessels, 1625-AA77
150. DHS/USCBP, Final Rule Stage, Electronic System for Travel Authorization (ESTA): Fee for Use of the System, 1651-AA83
151. DHS/USCBP, Long-Term Actions, Air Transit Program, 1651-AA50
152. DHS/USCBP, Long-Term Actions, Coastwise Transportation of Passengers, 1651-AA76
153. DHS/FEMA, Long-Term Actions, Disaster Assistance; Federal Assistance to Individuals and Households, 1660-AA18

Department of Housing and Urban Development

154. HUD/OH, Final Rule Stage, HOPE for Homeowners Program; Statutory Transfer of Program Authority to HUD and Conforming Amendments to Adopt Recently Enacted Statutory Changes (FR-5340), 2502-AI76
155. HUD/CPD, Final Rule Stage, Housing Trust Fund Program—Allocation Formula (FR-5246), 2506-AC23

Department of the Interior

156. DOI/BOEM, Proposed Rule Stage, Revised Requirements for Well Plugging and Platform Decommissioning, 1010-AD61

157. DOI/FWS, Proposed Rule Stage, Migratory Bird Hunting; 2011–12 Migratory Game Bird Hunting Regulations, 1018-AX34
158. DOI/FWS, Completed Actions, Migratory Bird Hunting; 2010–11 Migratory Game Bird Hunting Regulations, 1018-AX06

Department of Justice

159. DOJ/DEA, Final Rule Stage, Electronic Prescriptions for Controlled Substances, 1117-AA61
160. DOJ/DEA, Final Rule Stage, Retail Sales of Scheduled Listed Products; Chemical; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products, 1117-AB05
161. DOJ/CRT, Completed Actions, Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities, 1190-AA44
162. DOJ/CRT, Completed Actions, Nondiscrimination on the Basis of Disability in State and Local Government Services, 1190-AA46

Department of Labor

163. DOL/ETA, Final Rule Stage, Wage Methodology for the Temporary Non-Agricultural Employment H-2B Program, 1205-AB61
164. DOL/EBSA, Proposed Rule Stage, Improved Fee Disclosure for Welfare Plans, 1210-AB37
165. DOL/EBSA, Final Rule Stage, Improved Fee Disclosure for Pension Plans, 1210-AB08
166. DOL/EBSA, Final Rule Stage, Statutory Exemption for Provision of Investment Advice, 1210-AB35
167. DOL/EBSA, Final Rule Stage, Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act, 1210-AB44
168. DOL/EBSA, Long-Term Actions, Mental Health Parity and Addiction Equity Act, 1210-AB30
169. DOL/EBSA, Long-Term Actions, Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act, 1210-AB42
170. DOL/EBSA, Completed Actions, Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996, 1210-AA54
171. DOL/EBSA, Completed Actions, Improved Fee Disclosure for Pension Plan Participants, 1210-AB07
172. DOL/OSHA, Prerule Stage, Occupational Exposure to Beryllium, 1218-AB76

173. DOL/OSHA, Proposed Rule Stage, Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention), 1218-AB80
174. DOL/OSHA, Proposed Rule Stage, Combustible Dust, 1218-AC41
175. DOL/OSHA, Final Rule Stage, Electric Power Transmission and Distribution; Electrical Protective Equipment, 1218-AB67
176. DOL/OSHA, Completed Actions, Cranes and Derricks in Construction, 1218-AC01
177. DOL/WHD, Proposed Rule Stage, Amendments to the Family and Medical Leave Act of 1993, 1235-AA03

Department of State

178. STATE, Final Rule Stage, Schedule of Fees for Consular Services, Department of State, and Overseas Embassies and Consulates, 1400-AC58

Department of Transportation

179. DOT/FAA, Proposed Rule Stage, Air Carrier Maintenance Training Program, 2120-AJ79
180. DOT/FAA, Completed Actions, Automatic Dependent Surveillance—Broadcast (ADS-B) Equipage Mandate to Support Air Traffic Control Service, 2120-AI92
181. DOT/FHWA, Completed Actions, Real-Time System Management Information Program, 2125-AF19
182. DOT/FMCSA, Final Rule Stage, Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operations, 2126-AB06
183. DOT/FMCSA, Completed Actions, Electronic On-Board Recorders for Hours-of-Service Compliance, 2126-AA89
184. DOT/NHTSA, Completed Actions, Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2012-2016, 2127-AK50
185. DOT/FRA, Proposed Rule Stage, High-Speed Rail Corridor Development and Capital Investment Grants to Support Intercity Passenger Rail Service, 2130-AC17
186. DOT/FRA, Completed Actions, Positive Train Control, 2130-AC03

Department of the Treasury

187. TREAS/DO, Final Rule Stage, TARP Standards for Compensation and Corporate Governance, 1505-AC09
188. TREAS/FMS, Final Rule Stage, Management of Federal Agency Disbursements, 1510-AB26
189. TREAS/OTS, Long-Term Actions, Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital

- Maintenance; Standardized Risk-Based Capital Rules, 1550-AC19
190. TREAS/OCC, Proposed Rule Stage, Risk-Based Capital Standards: Market Risk, 1557-AC99
191. TREAS/OCC, Completed Actions, S.A.F.E. Mortgage Licensing Act, 1557-AD23

Department of Veterans Affairs

192. VA, Final Rule Stage, Payment for Inpatient and Outpatient Health Care Professional Services at Non-Departmental Facilities and Other Medical Charges Associated with Non-VA Outpatient Care, 2900-AN37
193. VA, Completed Actions, Diseases Associated with Exposure to Certain Herbicide Agents (Hairy Cell Leukemia and Other Chronic B Cell Leukemias, Parkinson's Disease, and Ischemic Heart Disease), 2900-AN54
194. VA, Completed Actions, Expansion of Enrollment in the VA Health Care System, 2900-AN66

Environmental Protection Agency

195. EPA/WATER, Final Rule Stage, Water Quality Standards (Numeric Nutrient Criteria) for Florida's Lakes and Flowing Waters, 2040-AF11
196. EPA/WATER, Long-Term Actions, National Primary Drinking Water Regulations: Radon, 2040-AA94
197. EPA/SWER, Proposed Rule Stage, Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and Additions to Incorporate the Provisions of the Energy Policy Act, 2050-AG46
198. EPA/SWER, Final Rule Stage, Oil Pollution Prevention: Spill Prevention, Control, and Countermeasure Rule Requirements—Amendments for Milk Containers, 2050-AG50
199. EPA/SWER, Long-Term Actions, Standards for the Management of Coal Combustion Residuals Generated by Commercial Electric Power Producers, 2050-AE81
200. EPA/AR, Proposed Rule Stage, Implementing Periodic Monitoring in Federal and State Operating Permit Programs, 2060-AN00
201. EPA/AR, Final Rule Stage, NSPS/Emission Guidelines (EG) for Sewage Sludge Incinerators, 2060-AP90
202. EPA/AR, Long-Term Actions, Review of the National Ambient Air Quality Standards for Ozone, 2060-AP38
203. EPA/AR, Long-Term Actions, Residual Risk and Technology Review Amendments to the Secondary Aluminum Production NESHAP, 2060-AQ40
204. EPA/AR, Completed Actions, Review of the Primary National Ambient Air Quality Standard for Sulfur Dioxide, 2060-AO48

205. EPA/AR, Completed Actions, NESHAP: Portland Cement Notice of Reconsideration and NSPS for Portland Cement, 2060-AO15
206. EPA/AR, Completed Actions Review of New Source Performance Standards—Portland Cement, 2060-AO42
207. EPA/AR, Completed Actions, EPA/NHTSA Joint Rulemaking to Establish Light-Duty Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 2060-AP58
208. EPA/AR, Completed Actions, Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule, 2060-AP86
209. EPA/AR, Completed Actions, National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines—Existing Stationary Spark Ignition (Gas-Fired), 2060-AQ13
210. EPA/AR, Completed Actions, Reconsideration of the 2008 Secondary National Ambient Air Quality Standards for Ozone, 2060-AQ50
211. EPA/OCSP, Long-Term Actions, Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings, 2070-AJ56
212. EPA/OCSP, Completed Actions, Lead; Amendment to the Opt-Out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program, 2070-AJ55

Consumer Product Safety Commission

213. CPSC, Long-Term Actions, Flammability Standard for Upholstered Furniture, 3041-AB35

Federal Communications Commission

214. FCC, Long-Term Actions, Processing Applications in the Direct Broadcast Satellite (DBS) Service; Feasibility of Reduced Orbital Spacing for Provision of DBS Service in the United States (IB Docket No. 06-160), 3060-AI86
215. FCC, Long-Term Actions, Broadband Over Power Line Systems, 3060-AI24
216. FCC, Long-Term Actions, Service Rules for the 746 to 764 and 776 to 794 MHz Bands, and Revisions to the Commission's Rules, 3060-AH32
217. FCC, Long-Term Actions, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, 3060-AH81
218. FCC, Long-Term Actions, Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04-344), 3060-AJ16
219. FCC, Long-Term Actions, In the Matter of Service Rules for the 698 to 746, 747 to 762, and 777 to 792 MHz Bands, 3060-AJ35

220. FCC, Long-Term Actions, IP-Enabled Services, 3060-AI48

Federal Deposit Insurance Corporation

221. FDIC, Long-Term Actions, Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies, 3064-AD62

222. FDIC, Completed Actions, Risk-Based Capital Guidelines; Capital Adequacy Guidelines: Standardized Framework, 3064-AD29

Nuclear Regulatory Commission

223. NRC, Completed Actions, Revision of Fee Schedules; Fee Recovery for FY 2010 (NRC-2009-0333), 3150-AI70

Social Security Administration

224. SSA, Long-Term Actions, Amendments to the Administrative Law Judge, Appeals Council, and Decision Review Board Appeals Levels (3401F), 0960-AG52

Source: Compiled from "The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 75, No. 243, December 20, 2010, pp 79,449–945 and from online edition at <http://www.gpoaccess.gov>.

Note: The "Regulation Identifier Number" appears at the end of each entry. Sequential numbers in the Regulatory Plan and Unified Agenda no longer apply.

Part F: Rules Affecting Small Business, 1996–2008

| | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|--|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Department of Agriculture | 56 | 58 | 63 | 49 | 47 | 56 | 39 | 64 | 52 | 54 | 67 | 73 | 93 |
| Department of Commerce | 46 | 29 | 52 | 88 | 98 | 89 | 77 | 74 | 79 | 108 | 111 | 112 | 107 |
| Department of Defense | 22 | 15 | 21 | 15 | 7 | 8 | 6 | 13 | 12 | 13 | 14 | 13 | 7 |
| Department of Education | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 |
| Department of Energy | 2 | 2 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 1 |
| Department of Health and Human Services | 89 | 100 | 88 | 75 | 107 | 108 | 92 | 96 | 106 | 112 | 109 | 96 | 93 |
| Department of Homeland Security | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 33 | 38 | 43 | 43 | 44 | 42 |
| Department of Housing and Urban Development | 9 | 7 | 1 | 1 | 0 | 3 | 6 | 11 | 6 | 4 | 4 | 5 | 1 |
| Department of the Interior | 17 | 28 | 29 | 33 | 18 | 20 | 17 | 26 | 20 | 21 | 29 | 19 | 18 |
| Department of Justice | 27 | 26 | 10 | 14 | 14 | 15 | 13 | 8 | 8 | 8 | 7 | 5 | 2 |
| Department of Labor | 51 | 39 | 41 | 38 | 40 | 26 | 22 | 23 | 19 | 19 | 26 | 26 | 29 |
| Department of State | 2 | 1 | 0 | 0 | 2 | 3 | 6 | 2 | 1 | 1 | 0 | 1 | 3 |
| Department of Transportation | 31 | 44 | 208 | 246 | 266 | 244 | 216 | 151 | 103 | 63 | 60 | 43 | 41 |
| Department of the Treasury | 52 | 50 | 60 | 15 | 31 | 27 | 26 | 27 | 38 | 41 | 37 | 45 | 47 |
| Department of Veterans Affairs | 3 | 7 | 6 | 6 | 3 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| Agency for International Development | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 1 | 0 | 0 | 1 | 1 | 0 |
| Architectural and Transportation Barriers Compliance Board | 0 | 0 | 3 | 2 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Corporation for National and Community Service | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 |
| Environmental Protection Agency | 152 | 163 | 178 | 179 | 205 | 185 | 167 | 135 | 122 | 110 | 95 | 85 | 83 |
| Federal Emergency Management Agency | 1 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| General Services Administration | 6 | 3 | 2 | 2 | 1 | 1 | 4 | 5 | 1 | 3 | 3 | 3 | 7 |
| National Aeronautics and Space Administration | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Archives and Records Administration | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 0 |
| Equal Employment Opportunity Commission | 0 | 1 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 3 | 3 | 3 | 2 |
| National Endowment for the Arts | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 |
| National Endowment for the Humanities | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Science Foundation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Office of Management & Budget | 2 | 1 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Railroad Retirement Board | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Small Business Administration | 17 | 13 | 20 | 28 | 24 | 21 | 21 | 24 | 18 | 19 | 21 | 15 | 13 |
| Social Security Administration | 1 | 0 | 0 | 2 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| U.S. Information Agency | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Acquisition Regulation | 20 | 15 | 11 | 16 | 13 | 9 | 6 | 5 | 5 | 7 | 5 | 5 | 6 |
| Commodity Futures Trading Commission | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | 1 | 1 |
| Consumer Product Safety Commission | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| Federal Communications Commission | 75 | 70 | 82 | 91 | 105 | 117 | 109 | 104 | 113 | 113 | 108 | 109 | 110 |
| Federal Energy Regulatory Commission | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |

| | | | | | | | | | | | | | | | | | | | | | | | |
|--|------------|------------|------------|------------|--------------|------------|------------|------------|------------|------------|------------|------------|------------|---|---|---|---|---|---|---|---|---|---|
| Federal Housing Finance Board | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Maritime Commission | 0 | 0 | 5 | 4 | 7 | 6 | 7 | 10 | 7 | 5 | 3 | 2 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Reserve System | 4 | 2 | 5 | 2 | 8 | 10 | 7 | 3 | 5 | 6 | 3 | 5 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Trade Commission | 7 | 11 | 10 | 10 | 9 | 9 | 9 | 9 | 11 | 12 | 13 | 11 | 13 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Mediation and Conciliation Service | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Interstate Commerce Commission | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Credit Union Administration | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 4 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nuclear Regulatory Commission | 8 | 9 | 8 | 5 | 3 | 5 | 5 | 3 | 0 | 1 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Resolution Trust Corporation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 17 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Securities and Exchange Commission | 48 | 34 | 27 | 39 | 40 | 26 | 28 | 25 | 20 | 0 | 16 | 29 | 19 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Commission on Civil Rights | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Court Services/Offender Supervision, D.C. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| CPBSD* | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Institute of Museum and Library Services | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Office of Federal Housing Enterprise Oversight | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Office of Government Ethics | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Office of Personnel Management | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Peace Corps | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pension Benefit Guaranty Corporation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Selective Service Administration | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Farm Credit Administration | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Farm Credit Insurance Corporation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Federal Deposit Insurance Corporation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| National Indian Gaming Commission | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Surface Transportation Board | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 754 | 733 | 937 | 963 | 1,054 | 996 | 892 | 859 | 789 | 788 | 787 | 757 | 753 | | | | | | | | | | |

*Committee for Purchase from People Who Are Blind or Severely Disabled.

Sources: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," Federal Register, various years' editions; and from online edition at <http://www.reginfo.gov>.

Part G. Federal Rules Affecting State and Local Governments, 2003–2009

| | 2009 | | | 2008 | | | 2007 | | | 2006 | | | 2005 | | | 2004 | | | 2003 | | |
|--|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------|-------|-------|-------|-------|-------|-------|
| | State | Local | Total | State | Local | Total | State | Local | Total | State | Local | Total | State | Local | Total | State | Local | Total | State | Local | Total |
| Department of Agriculture | 75 | 49 | 72 | 41 | 63 | 43 | 74 | 58 | 69 | 59 | 71 | 59 | 53 | 42 | | | | | | | |
| Department of Commerce | 20 | 11 | 22 | 11 | 22 | 9 | 28 | 9 | 34 | 8 | 23 | 9 | 18 | 9 | | | | | | | |
| Department of Defense | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Department of Education | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Department of Energy | 23 | 20 | 27 | 25 | 19 | 18 | 12 | 9 | 16 | 15 | 9 | 8 | 9 | 9 | | | | | | | |
| Department of Health and Human Services | 71 | 38 | 69 | 41 | 83 | 45 | 70 | 47 | 34 | 19 | 35 | 18 | 40 | 20 | | | | | | | |
| Department of Homeland Security | 39 | 30 | 33 | 25 | 37 | 28 | 39 | 28 | 39 | 29 | 37 | 27 | 34 | 28 | | | | | | | |
| Department of Housing and Urban Development | 2 | 3 | 2 | 4 | 1 | 4 | 3 | 7 | 6 | 10 | 9 | 13 | 14 | 23 | | | | | | | |
| Department of the Interior | 30 | 7 | 41 | 11 | 37 | 9 | 37 | 11 | 44 | 17 | 37 | 16 | 42 | 20 | | | | | | | |
| Department of Justice | 16 | 11 | 15 | 10 | 17 | 11 | 14 | 8 | 15 | 9 | 16 | 10 | 15 | 11 | | | | | | | |
| Department of Labor | 27 | 15 | 17 | 9 | 20 | 7 | 13 | 8 | 16 | 10 | 18 | 12 | 23 | 14 | | | | | | | |
| Department of State | 1 | 0 | 2 | 0 | 3 | 0 | 3 | 0 | 4 | 1 | 1 | 1 | 2 | 1 | | | | | | | |
| Department of Transportation | 16 | 6 | 18 | 6 | 19 | 7 | 27 | 12 | 11 | 4 | 21 | 13 | 26 | 16 | | | | | | | |
| Department of the Treasury | 29 | 24 | 24 | 20 | 28 | 25 | 16 | 15 | 13 | 12 | 17 | 13 | 22 | 15 | | | | | | | |
| Department of Veterans Affairs | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 2 | 1 | 3 | 2 | 5 | 2 | | | | | | | |
| Environmental Protection Agency | 101 | 70 | 104 | 65 | 119 | 80 | 132 | 86 | 143 | 98 | 140 | 92 | 157 | 103 | | | | | | | |
| Architectural and Transportation Barriers Compliance Board | 3 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | | | | | | | |
| CPBSD* | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | | | | | | | |
| Advisory Council on Historic Preservation | | | | | | | | | | | | | | | | | | | | | |
| Corporation for National and Community Service | 5 | 5 | 5 | 5 | 6 | 6 | 7 | 7 | 9 | 9 | 5 | 5 | 4 | 4 | | | | | | | |
| Federal Emergency Management Agency | | | | | | | | | | | | | | | | | | | | | |
| Equal Employment Opportunity Commission | 5 | 5 | 2 | 3 | 3 | 4 | 3 | 4 | 3 | 4 | 1 | 1 | 2 | 2 | | | | | | | |
| General Services Administration | 9 | 7 | 10 | 7 | 8 | 5 | 8 | 5 | 8 | 5 | 8 | 6 | 11 | 7 | | | | | | | |
| National Aeronautics and Space Agency | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| National Archives and Records Administration | 0 | 0 | 1 | 1 | 3 | 3 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 | | | | | | | |
| Institute of Museum and Library Services | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | | | | | | | |
| National Endowment for the Arts | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | | | | |
| National Endowment for the Humanities | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Office of Management and Budget | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | | | | | | | |
| Social Security Administration | 2 | 0 | 3 | 0 | 4 | 0 | 2 | 0 | 3 | 0 | 5 | 1 | 8 | 3 | | | | | | | |
| Federal Communications Commission | 30 | 20 | 32 | 20 | 31 | 20 | 32 | 19 | 37 | 24 | 33 | 20 | 21 | 16 | | | | | | | |
| Federal Energy Regulatory Commission | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Federal Reserve System | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | | | | | | | |
| Federal Trade Commission | 3 | 1 | 1 | 0 | 1 | 0 | 2 | 1 | 1 | 1 | 1 | 0 | 1 | 0 | | | | | | | |
| National Credit Union Administration | 0 | 0 | 1 | 0 | 0 | 0 | 3 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| National Indian Gaming Commission | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | | | | |
| Nuclear Regulatory Commission | 4 | 2 | 3 | 1 | 4 | 1 | 3 | 1 | 3 | 1 | 3 | 0 | 4 | 1 | | | | | | | |
| Securities and Exchange Commission | 1 | 1 | 2 | 2 | 4 | 3 | 2 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | | | | | | | |
| TOTALS | 514 | 328 | 513 | 312 | 539 | 334 | 543 | 346 | 523 | 346 | 507 | 338 | 527 | 359 | | | | | | | |

*Committee for Purchase from People Who Are Blind or Severely Disabled.

Sources: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," Federal Register, various years' editions; and from online edition at <http://www.reginfo.gov>.

Notes

1 Office of Management and Budget (OMB), *Budget of the United States Government*, Fiscal Year 2012, Summary Tables, Table S-1, “Budget Totals,” p. 171, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/tables.pdf>.

2 Congressional Budget Office (CBO), *The Budget and Economic Outlook: Fiscal Years 2011 to 2021*, January 2011, Table 1-1, “Projected Deficits and Surpluses in CBO’s Baseline,” p. 2, http://www.cbo.gov/ftpdocs/120xx/doc12039/01-26_FY2011Outlook.pdf.

3 Outlays in 2002 were \$2.0112 trillion. CBO, “Revenues, Outlays, Surpluses, Deficits, and Debt Held by the Public, 1969 to 2008,” January 13, 2009, Supplement to the 2009 *Budget and Economic Outlook*, http://www.cbo.gov/ftpdocs/99xx/doc9957/selected_tables.xls.

4 Ibid.

5 Lori Montgomery, “Obama Budget Projects Record \$1.6 Trillion Deficit,” *The Washington Post*, February 14, 2011, p. A1, <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/14/AR2011021400906.html>.

6 Percentages are available at U.S. Census Bureau, *Statistical Abstract of the United States: 2010*, Table 1324, “Gross Public Debt, Expenditures, and Receipts by Country: 1990 to 2008,” <http://www.census.gov/compendia/statab/2010/tables/10s1324.pdf>.

7 Central Intelligence Agency, *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/fields/2056.html>.

8 Office of Management and Budget, *2010 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, July 2010, Table 1-1, “Estimates of the Total Annual Benefits and Costs of Major Federal Rules by Agency, October 1, 1999–September 30, 2009 (millions of 2001 dollars),” pp. 11-12, http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/2010_Benefit_Cost_Report.pdf.

9 Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-04666, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>.

10 Their calculations updated a 2005 report by Mark Crain, as well as an earlier October 2001 report by Crain and Thomas Hopkins that noted regulatory costs of \$843 billion. W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, RFP No. SBAHQ-00-R-0027, October 2001, <http://www.sba.gov/advo/research/rs207tot.pdf>. This report, in turn, updates still earlier analyses, such as Thomas D. Hopkins, “The Changing Burden of Regu-

lation, Paperwork, and Tax Compliance on Small Business: A Report to Congress,” Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, Washington, DC, October 1995, http://www.sba.gov/advo/laws/archive/law_brd.html.

11 See James Pethokoukis, “The Return of Big Government,” *U.S. News & World Report*, April 11, 2008, <http://www.usnews.com/money/business-economy/articles/2008/04/11/the-return-of-big-government.html>.

12 See Thomas D. Hopkins, “Statement Prepared 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,” Policy Study No. 231, Center for the Study of American Business, August 1996, p. 4.

13 Crain and Crain, “The Impact of Regulatory Costs,” p. 7 (see note 9).

14 Ibid, pp. 7–8

15 CBO, Supplement to 2009 *Budget and Economic Outlook* (see note 3).

16 CBO, *The Budget and Economic Outlook: Fiscal Years 2011 to 2021*, Table 1-4, “CBO’s Baseline Budget Projections,” p. 15 (see note 2).

17 Figures in this section for the 2008 and 2009 deficit and outlays are contained in CBO, *The Budget and Economic Outlook*, January 2009 and 2010 editions, <http://www.cbo.gov>.

18 Committee on the Budget, “Chairman Spratt’s Statement on CBO Deficit Projection,” news release, March 20, 2009, <http://democrats.budget.house.gov/PRArticle.aspx?NewsID=1674>.

19 Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2011*, Table 473, “Federal Budget Receipts by Source: 1990 to 2010,” <http://www.census.gov/compendia/statab/2011/tables/11s0473.pdf>.

20 Ibid.

21 Ibid., Table 787, “Corporate Profits before Taxes by Industry: 2000 to 2008,” <http://www.census.gov/compendia/statab/2011/tables/11s0787.pdf>. Profits do not reflect inventory valuation and capital consumption adjustments.

22 Gross National Income (GNI) figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2011*, Table 1347, “Gross National Income (GNI) by Country: 2000 and 2008,” <http://www.census.gov/compendia/statab/2011/tables/11s1347.pdf>. The Abstract notes: “GNI measures the total domestic and foreign value added claimed by residents. GNI comprises GDP plus net receipts of primary income (compensation of employees and property income) from nonresident sources.”

23 CBO, *The Budget and Economic Outlook: Fiscal Years 2011 to 2021*, Table 2-1, “CBO’s Economic Projections for Calendar Years 2010 to 2021,” p. 29 (see note 2).

24 Susan Dudley and Melinda Warren, “A Decade of Growth in the Regulators’ Budget: An Analysis of the U.S. Budget for Fiscal Years 2010 and 2011,” *Regulators’ Budget Report* 32, published jointly by the Regulatory Studies Center of George Washington University and the Weidenbaum Center, May 2010, p. 23. <http://www.regulatorystudies.gwu.edu/images/pdf/regbudget20100518.pdf>.

25 James Gattuso, “Red Tape Rising: Regulatory Trends in the Bush Years,” Heritage Foundation *Background*, No. 2116, March 25, 2008, p. 3, <http://www.heritage.org/research/reports/2008/03/red-tape-rising-regulatory-trends-in-the-bush-years>.

26 Whether any particular president’s homestretch regulations (the phenomenon has a long history) are designed to mitigate and ease earlier rules (which also requires *Federal Register* notice and comment) or to add actual new rules requires analysis separate from this report. See Emma Schwartz, “The Bush Administration’s Midnight Regulations,” *ABC News*, October 30, 2008, <http://abcnews.go.com/Blotter/Story?id=6146929&page=1>; and Stephen Power, Elizabeth Williamson, and Christopher Conkey, “White House Pushes through a Flurry of Rule Changes Sought by Business,” *The Wall Street Journal*, November 20, 2008, <http://online.wsj.com/article/SB122714583954143319.html>.

27 OMB Watch, “OMB Watch Statement on Cass Sunstein’s Senate Confirmation,” news release, September 10, 2009, <http://www.ombwatch.org/node/10371>.

28 The memo specified that “[N]o proposed or final regulation should be [published] unless and until it has been reviewed and approved by a department or agency head appointed or designated by the President after noon on January 20, 2009.” The memo, like moratoriums issued by prior administrations, exempts regulations that address “urgent circumstances relating to health, safety, environmental, financial, or national security matters,” as well as regulations subject to statutory or judicial deadlines.

29 A freeze was advocated by the Competitive Enterprise Institute in the months prior to Obama’s inauguration: Clyde Wayne Crews Jr., “To President-Elect Obama—Freeze Gov’t Regulations This Winter,” *OpenMarket*, November 12, 2008, <http://www.openmarket.org/2008/11/12/to-president-elect-obama%E2%80%94freeze-govt-regulations-this-winter>.

30 See, for example, *Ten Thousand Commandments: A Policymaker’s Snapshot of the Federal Regulatory State*, Competitive Enterprise Institute, September 1996, <http://cei.org/gencon/025,01430.cfm>.

31 Counting year 2000 as part of the new millennium, which is technically incorrect.

32 Compiled from National Archives and Records Administration, Office of the Federal Register, “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” printed in *Federal Register*, Vol. 74, No. 233, December 7, 2009, <http://www.gpoaccess.gov/ua/browse1209.html>. Cited hereafter as Agenda.

33 Although the Agenda is published twice a year, this document tracks each year’s October or December year-end compilation.

34 Darren Goode, “Gripes over EPA in Responses to Darrell Issa,” *Politico*, February 7, 2011, <http://www.politico.com/news/stories/0211/48995.html>. Rep. Issa made the submissions public here: http://oversight.house.gov/images/stories/Regulatory_Responses.pdf.

35 Fred Smith, Letter to Rep. Darrell Issa, January 3, 2011, <http://www.scribd.com/doc/47563145/Competitive-Enterprise-Institute-Letter-to-Chairman-Issa-January-3-2011>.

36 *Federal Register*, Vol. 74, No. 233, December 7, 2009, p. 64133.

37 *Ibid.*, pp. 64131–32.

38 The legislation and executive orders by which agencies are directed to assess effects on state and local governments are described in the Agenda’s appendixes.

39 Government Accountability Office website, “Congressional Review Act Reports,” <http://www.gao.gov/legal/congress.html>.

40 James Gattuso, Diane Katz, and Stephen Keen, “Red Tape Rising: Obama’s Torrent of New Regulation,” Heritage Foundation *Background*, No. 2482, October 26, 2010, pp. 2 and 4, <http://www.heritage.org/research/reports/2010/10/red-tape-rising-obamas-torrent-of-new-regulation>. This report extends earlier analysis in James Gattuso, “Red Tape Rising: Regulatory Trends in the Bush Years” (see note 25).

41 Dudley and Warren, “A Decade of Growth,” from Table A-1, “Agency Detail of Spending on Federal Regulatory Activity: Current Dollars,” pp. 14–15 (see note 24).

42 See Clyde Wayne Crews Jr., “Splinternets and Cyberspaces vs. Net Neutrality,” *Daily Caller*, February 3, 2010, <http://dailycaller.com/2010/02/03/splinternets-and-cyberspaces-vs-net-neutrality/>.

43 See Clyde Wayne Crews Jr., Comments of the Competitive Enterprise Institute to the Federal Communications Commission in the matter of “Preserving the Open Internet Broadband Industry Practices,” GN Docket No. 09-191, WC Docket No. 07-52, January 14, 2010, http://cei.org/cei_files/fm/active/0/Neutrality%20comment%20to%20FCC%20Jan%202010.pdf.

44 See Clyde Wayne Crews Jr., Comments of the Competitive Enterprise Institute to the Federal Communications Commission in the matter of “The Future of Media and

Information Needs of Communities in a Digital Age,” GN Docket No. 10-25, May 7, 2010, http://cei.org/cei_files/fm/active/0/31076904-Comments-of-Competitive-Enterprise-Institute-in-FCC-Future-of-Media-Proceeding-GN-Docket-No-10-25.pdf.

45 Federal Communications Commission (FCC), Report and Order on “Preserving the Open Internet Broadband Industry Practices,” adopted December 21, 2010, http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db1223/FCC-10-201A1.pdf.

46 FCC, “In the Matter of Service Rules for the 698 to 746, 747 to 762 and 777 to 792 MHz Bands,” RIN 3060-AJ35, Fall 2010, <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201010&RIN=3060-AJ35>.

47 Clyde Wayne Crews Jr., “Promise and Peril: Implementing a Regulatory Budget,” *Policy Sciences*, Vol. 31, No. 4, December 1998, <http://cei.org/PDFs/promise.pdf>.

48 For a complete analysis, see David Schoenbrod and Jerry Taylor, “The Delegation of Legislative Powers,” in *Cato Handbook for Congress: Policy Recommendations for the 108th Congress*, ed. Edward H. Crane and David Boaz (Washington, DC: Cato Institute, 2003), pp. 77–85, <http://www.cato.org/pubs/handbook/hb108/hb108-8.pdf>.

49 See William A. Niskanen Jr., *Bureaucracy and Representative Government* (Chicago: Aldine, Atherton, 1971).

50 Derived from “Public and Private Laws: Browse 111th Congress (2009–2010),” <http://www.gpoaccess.gov/plaws/111publ.html>.

About the Author

Clyde Wayne Crews Jr. is Vice President for Policy and Director of Technology Studies at the Competitive Enterprise Institute. His work focuses on regulatory reform, antitrust and competition policy, safety and environmental issues, and various information-age concerns such as e-commerce, privacy, “spam,” broadband, and intellectual property.

Crews has published in outlets such as the *Wall Street Journal*, *Chicago Tribune*, *Forbes*, *Atlanta Journal-Constitution*, *Communications Lawyer*, and *Electricity Journal*. He has made various TV appearances on Fox News, CNN, ABC, and other media outlets, and his regulatory reform ideas have been featured prominently in such publications as the *Washington Post*, *Forbes*, and *Investor’s Business Daily*. He is frequently invited to speak and has testified before several congressional committees.

Crews is co-editor of the books *Who Rules the Net: Internet Governance and Jurisdiction* (2003) and *Copy Fights: The Future of Intellectual Property in the Information Age* (2002). He is co-author of *What’s Yours Is Mine: Open Access and the Rise of Infrastructure Socialism* (2003) and is a contributing author to other books.

The Competitive Enterprise Institute is a non-profit public policy organization dedicated to the principles of free enterprise and limited government. We believe that consumers are best helped not by government regulation but by being allowed to make their own choices in a free marketplace. Since its founding in 1984, CEI has grown into an influential Washington institution.

We are nationally recognized as a leading voice on a broad range of regulatory issues ranging from environmental laws to antitrust policy to regulatory risk. CEI is not a traditional “think tank.” We frequently produce groundbreaking research on regulatory issues, but our work does not stop there. It is not enough to simply identify and articulate solutions to public policy problems; it is also necessary to defend and promote those solutions. For that reason, we are actively engaged in many phases of the public policy debate.

We reach out to the public and the media to ensure that our ideas are heard, work with policymakers to ensure that they are implemented and, when necessary, take our arguments to court to ensure the law is upheld. This “full service approach” to public policy makes us an effective and powerful force for economic freedom.



Competitive Enterprise Institute

1899 L Street, NW
12th Floor
Washington, DC 20036
202-331-1010
Fax 202-331-0640
www.cei.org