

2009

Ten Thousand

Commandments



An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews Jr.



Competitive Enterprise Institute

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Executive Summary

President Barack Obama's federal budget for fiscal year (FY) 2010 proposed \$3.552 trillion in discretionary, entitlement, and interest spending.¹ The previous fiscal year, President George W. Bush had proposed the first-ever \$3-trillion U.S. budget. President Bush was also the first to propose a \$2-trillion federal budget—in 2002, a scant seven years ago.²

Now the administration projects actual FY 2009 spending of almost \$4 trillion (\$3.938 trillion³) instead of Bush's \$3 trillion, thanks to the late-2008 bailout and "stimulus" frenzy. The result: a projected FY 2009 deficit of a previously unthinkable \$1.752 trillion.⁴ The Congressional Budget Office (CBO) paints an even more dismal picture.

To be sure, many other countries' governments consume more of their national output than the U.S. government does;⁵ but in absolute terms, the U.S. government is the largest government on Earth, whether one looks at revenues or expenditures.⁶

The "Hidden Tax" of Regulation

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

Firms generally pass along the costs of some taxes to consumers. Likewise, some regulatory compliance costs that businesses should find their way into consumer prices. Precise regulatory costs can never be fully known; unlike taxes, they are unbudgeted and often indirect. But scattered government and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits. Some of that information can be compiled to make

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the regulatory state somewhat more comprehensible. That is one purpose of the annual *Ten Thousand Commandments* report, highlights of which appear next:

- A very rough extrapolation from an estimate of the federal regulatory enterprise by economist Mark Crain estimates that regulatory compliance costs hit \$1.172 trillion in 2008.
- Given 2008's government spending of \$2.98 trillion, the regulatory "hidden tax" stood at 39 percent of the level of federal spending itself. (Because of the months-old spending surge, this proportion will surely be lower next year.)
- Trillion-dollar deficits and regulatory costs in the trillions are both unsettling new developments for America. Although FY 2008 regulatory costs are more than double that year's \$459 billion budget deficit, the more recent deficit spending surge will catapult the deficit above the costs of regulation for the near future.
- CBO now projects 2009 federal spending to hit \$4.004 trillion and the deficit to soar to \$1.845 trillion. The game has changed; although these spending levels eclipse federal regulatory costs now, unchecked government spending translates, in later years, into greater regulation as well.
- Regulatory costs are equivalent to 65 percent of 2006 corporate pretax profits of \$1.8 trillion.
- Regulatory costs rival estimated 2008 individual income taxes of \$1.2 trillion.
- Regulatory costs dwarf corporate income taxes of \$345 billion.
- Regulatory costs of \$1.172 trillion absorb 8 percent of the U.S. gross domestic product (GDP), estimated at \$14.3 trillion in 2008.
- Combining regulatory costs with federal FY 2008 outlays of \$2.978 trillion implies that the federal government's share of the economy now reaches 29 percent.
- The Weidenbaum Center at Washington University in St. Louis and the Mercatus Center at George Mason University in Virginia jointly estimate that agencies spent \$49.1 billion to administer and police the 2008 regulatory enterprise. Adding the \$1.172 trillion in off-budget compliance costs brings the total regulatory burden to \$1.221 trillion.
- The 2008 *Federal Register* is close to breaking the 80,000-page barrier. It contained 79,435 pages, up 10 percent from 72,090 pages in 2007—an all-time record high.
- *Federal Register* pages devoted specifically to final rules jumped nearly 16 percent, from 22,771 to a record 26,320.
- In 2008, agencies issued 3,830 final rules, a 6.5-percent increase from 3,595 rules in 2007.
- The annual outflow of roughly 4,000 final rules has meant that well over 40,000 final rules were issued during the past decade.
- Although regulatory agencies issued 3,830 final rules in 2008, Congress passed and the President signed into law a comparatively low 285 bills. Considerable lawmaking power is delegated to unelected bureaucrats at agencies.
- According to the 2008 Unified Agenda, which lists federal regulatory actions at various stages of implementation, 61 federal departments, agencies, and commissions have 4,004 regulations in play at various stages of implementation.
- Of the 4,004 regulations now in the pipeline, 180 are "economically significant" rules packing at least \$100 million in economic impact. Assuming these rulemakings are primarily regulatory rather than deregulatory, that number implies roughly \$18 billion yearly in future off-budget regulatory effects.
- "Economically significant" rules increased by 13 percent between 2007 and 2008 (following a 14-percent increase the year before). As noted, high federal budgetary spending now likely implies higher future regulatory costs as well.
- The five most active rule-producing agencies—the departments of the Treasury, Agriculture, Commerce, and the Interior, along with the Environmental Protection Agency—account for 1,837

rules, or 46 percent of all rules in the Unified Agenda pipeline.

- Of the 4,004 regulations now in the works, 753 affect small business.

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 spending culture.⁷ Indeed, CBO projects no surpluses whatsoever over the coming decade.⁸ 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 costing over \$1 trillion a year is an unsettling new development for America. The deficit is already widely—and rightly—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.

Indeed, without better regulatory oversight and monitoring—that is, 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 new deficit spending. Taxation and regulation can substitute for each other; a new government program (job training, for example) would mean either increasing government spending or imposing new rules and regulations requiring such training. 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 flow of regulations and their costs should be tracked and monitored each year. Cost-benefit analysis of rules is the usual approach to policing excess regulation. A problem with cost-benefit analysis, however, 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.

Going further, Congress should answer for the compliance costs (and 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, helping to fulfill a principle of “no regulation without representation.”

Disclosing regulatory costs remains important even if Congress approves all rules. Openness 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 presentation 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.

The short-lived string of budgetary surpluses enjoyed from 1998 to 2001 seems like ancient history—even inconceivable—in today’s spending culture.

Overview

Toward Ending “Regulation without Representation”

If regulatory compliance costs prove burdensome, Congress can escape accountability and blame the agency that issued the unpopular rule.

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 are, taxpayers can examine costs in the federal budget. Congress’s spending accountability, though not perfect, 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. Regulation can advance 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 (and state and local governments) to pay for federal initiatives through compliance costs.

Because disclosure of and accountability for regulatory costs are both spotty, policymakers can afford to be cavalier about imposing regulatory costs relative to undertaking ordinary but more publicly visible government spending. If regulatory compliance costs prove burdensome, Congress can escape accountability and blame the agency that issued the unpopular rule. Because regulatory costs are not budgeted and because they lack the formal public disclosure

Table I. The Regulatory State: A 2009 Overview

	Year-End 2008	1-Year Change	5-Year Change (2004-2008)	10-Year Change (1999-2008)
Total regulatory costs	\$1.172 trillion	n/a	n/a	n/a
Agency enforcement budgets	\$49.1 billion	8.6%	18.0%	68.2%
Federal Register pages	79,435	10.2%	5.0%	11.6%
Federal Register pages devoted to final rules	26,320	15.6%	16.7%	30.3%
Federal Register final rules	3,830	6.5%	-6.6%	-18.2%
Total rules in Agenda	4,004	-1.9%	-9.0%	-11.8%
“Economically significant” rules in the pipeline	180	13.2%	33.0%	31.4%
Rules affecting small business	753	-0.5%	-4.6%	-21.8%
Rules affecting state governments	513	-4.8%	1.2%	-29.3%
Rules affecting local governments	312	-6.6%	-7.7%	-31.1%
FCC Breakdown				
Total number of FCC rules in Agenda	143	-1.4%	-2.0%	11.7%
FCC rules affecting small business	106	-2.7%	-6.2%	16.5%

Note: n/a = not applicable.

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 2009 contains four basic 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

Regulation's Social and Economic Costs

The Office of Management and Budget's (OMB) 2008 *Report to Congress* on regulatory costs and benefits pegs the cumulative 1997-2007 costs of 93 selected major regulations at between \$46 billion and \$54 billion. Meanwhile, the estimated range for benefits was \$122 billion to \$655 billion.⁹

OMB's cost-benefit breakdown incorporates only benefits and costs that agencies or OMB expressed in quantitative and monetary terms, 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, W. Mark Crain of Lafayette College prepared a comprehensive estimate for 2004 for the Small Business Administration.¹⁰ 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). Crain found regulatory costs of \$1.113 trillion for 2004. (His calculations update an October 2001 report by Crain and Thomas Hopkins that noted regulatory costs of \$843 billion.)¹¹

Adjusting the Crain 2004 regulatory costs for 2008 by extrapolating the growth trend in regulatory costs that had prevailed between 2000 and 2004 yields a rough esti-

mate of \$1.172 trillion.¹² Figure 1 breaks down the regulatory cost estimate by categories: economic, environmental, tax compliance, and workplace. Economic costs, the largest category at \$622 billion, include the noted price-and-entry controls on business and losses from economic transfers.¹³ Given that indirect costs—such as the effects of lost innovation or productivity—are not included in Crain's analysis, those figures could understate the total regulatory burden.¹⁴

Regulatory benefits are beyond the scope of the Crain analysis, although those benefits would be recognized as offsetting some costs.¹⁵ 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. Table 2 shows, for 2004, how per-employee regulatory costs for firms of fewer than 20 workers can be more than 40 percent greater than for larger firms (more than \$7,600 for smaller firms versus \$5,300 for larger ones).¹⁶

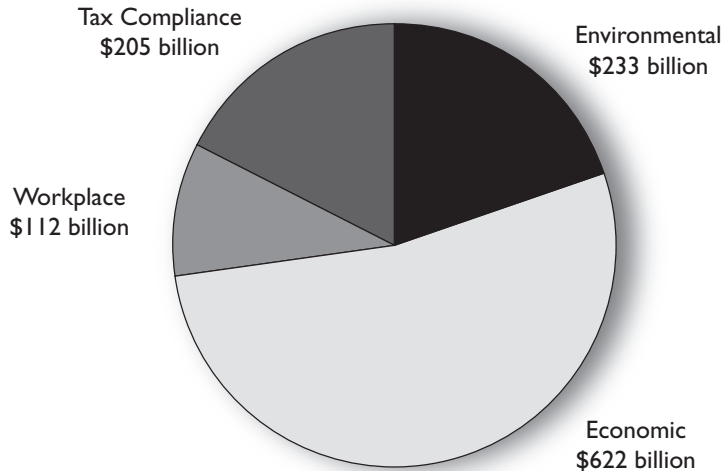
Regulation versus Government Spending

Regulation had been "catching up" with 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.)¹⁷ In FY 2008, a deficit of \$459 billion was posted on \$2.98 trillion in

Per-employee regulatory costs for firms of fewer than 20 workers can be more than 40 percent greater than for larger firms.

Figure 1. 2007 Federal Regulatory Costs, \$1.172 Trillion



Source: Extrapolated from W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>.

Table 2. Per-Employee Regulatory Costs Higher for Small Firms (2004)

Size of Firm	Regulatory Costs per Employee
Large > 500 employees	\$5,282
Medium 20-499 employees	\$5,411
Small < 20 employees	\$7,647

Source: W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBHQ-03-M-0522, September 2005, p. 5, <http://www.sba.gov/advo/research/rs264tot.pdf>.

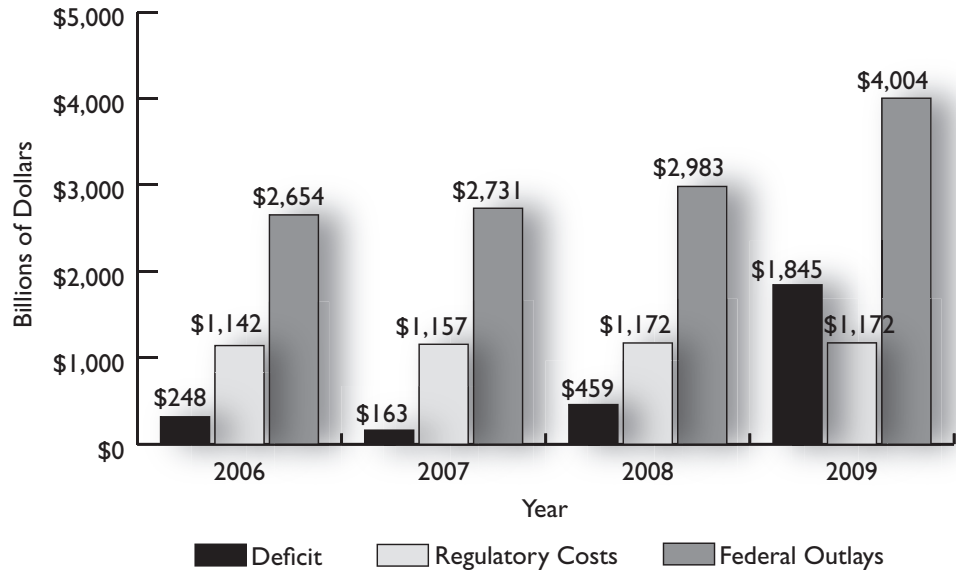
outlays, with no surplus projected over the coming decade.¹⁸

The approximate \$1.17 trillion in regulatory costs in 2008 is equivalent to 39 percent of spending of \$2.98 trillion, and it is more than double the \$459 billion deficit. Figure 2 compares 2006-2008 deficits and outlays with Crain's regulatory cost estimates.¹⁹ Note that the regulatory hidden tax in recent years has approached roughly 40 percent of the size of budgeted government.

...But the federal spending surge heralds new regulation

All that has changed in 2009, the current fiscal year. Contemplating off-budget regulatory compliance costs approaching half the magnitude of the official budget itself was already disconcerting enough. But the situation is more precarious now given Washington's new high-spending culture. Note the sea change anticipated for 2009 in Figure 2. Now the

Figure 2. Off-Budget Regulatory Costs Compared with Federal Spending (2006-2008 and projected 2009)



Sources: 2006-07 deficit and outlays are from Congressional Budget Office, *The Budget and Economic Outlook*, 2007-08 editions; 2008-09 deficit and outlays are from Congressional Budget Office, *A Preliminary Analysis of the President's Budget and an Update of CBO's Budget and Economic Outlook*; Table I-1, March 2009, <http://www.cbo.gov/ftpdocs/100xx/doc10014/03-20-PresidentBudget.pdf>. Regulatory costs 2006-09 are based on W. Mark Crain, *The Impact of Regulatory Costs on Small Firms*, report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advoc/research/rs264tot.pdf>.

Note: Regulatory costs are a rough projection based on average annual increases in regulatory costs between 2000 and 2004 from Crain, 2005. Federal deficit and outlay numbers are by fiscal year; regulatory costs are by calendar year.

All new spending related to bailouts and stimulus will have regulatory cost implications too.

Congressional Budget Office projects actual FY 2009 spending of \$4.004 trillion thanks to the late-2008 bailout and “stimulus” frenzy (these new estimates are higher than the administration’s original spending projections noted in the executive summary).²⁰

Given the months-old spending surge, regulatory costs, although at record highs, will be lower as a proportion of surging federal spending, but there is no silver lining here; higher spending will itself eventually translate into higher future regulatory costs. Any spending related to such bailout and “stimulus” as infrastructure, banking bailouts, energy efficiency mandates, and the like will have significant regulatory components as well (for example, salary cap proposals have been made with respect to bank bailouts, and

“Net neutrality” proposals have been made with respect to telecommunications infrastructure spending). That bears repeating: All new spending related to bailouts and stimulus will have regulatory cost implications too.

Deficit spending that eclipses regulation has ominous implications

CBO projects the deficit for FY 2009 to rocket to \$1.845 trillion,²¹ a number that eclipses even the \$1.17 trillion cost of regulation and, indeed, is larger than all federal budget outlays as recently as 2000.²² Indeed, the days of a \$2-trillion federal budget are long past. President George W. Bush—only one year ago—presented the first \$3 trillion budget. CBO now projects FY 2009 outlays of a

staggering \$4.004 trillion. Figure 2 compares current regulatory costs with these new deficit and outlay projects; clearly, the recent spending surge catapults the deficit above the costs of regulation for the near future.

Trillion-dollar deficits and regulatory costs in the trillions are both unsettling new developments for America. It is sobering to note how both dwarf the \$150 billion “stimulus package” of early 2008, the tax rebates that were to resurrect the economy at that time. Where we go from here is a tough call. House Budget Committee Chairman John Spratt put it rather well:

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.²³

A retreat from deficit spending could mean more regulating

As noted in the executive 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 (and 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 deficit 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 regulatory compliance costs prove burdensome, Congress can escape accountability and blame the agencies that issue the unpopular rules.

Regulatory Costs versus Income Taxes and Corporate Profits

Regulatory costs now exceed or nearly match revenue from major taxes. As Figure 3 shows, regulatory costs rival estimated 2008 individual income taxes, which were \$1.22 trillion that year.²⁴ Corporate income taxes, estimated at \$345 billion, are dwarfed by regulatory costs.²⁵ Regulatory cost levels are well over half those of pretax corporate profits, which were \$1.81 trillion in 2006.²⁶

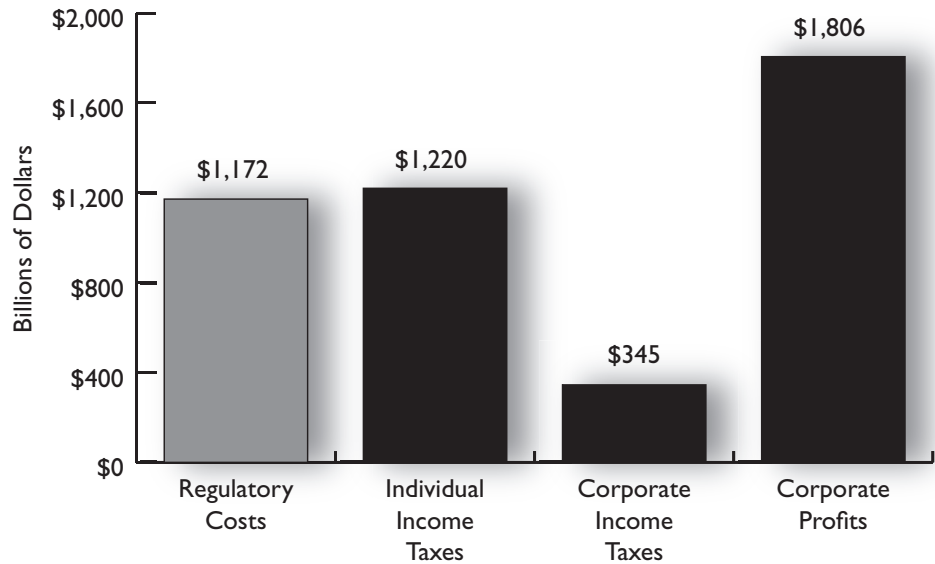
In a global perspective, U.S. regulatory costs of \$1.172 trillion exceed the output of many major national economies. Figure 4 shows that U.S. regulatory costs nearly equaled the entire 2006 gross national income (GNI) of Canada, which stood at \$1.197 trillion. The regulatory burden also exceeded Mexico’s GNI of \$816 billion.²⁷ For the United States, the Congressional Budget Office estimated the 2008 GDP at \$14.3 trillion.²⁸ Total regulatory costs of \$1.172 trillion are equivalent to 8 percent of that amount. Combining regulatory costs with federal FY 2008 outlays of \$2.978 trillion shows that the federal government’s share of the economy now reaches 29 percent.

The Federal Government’s Costs of Administering 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. The Weidenbaum Center at Washington University in St. Louis, and the Mercatus Center at George Mason University in Arlington, Virginia, 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

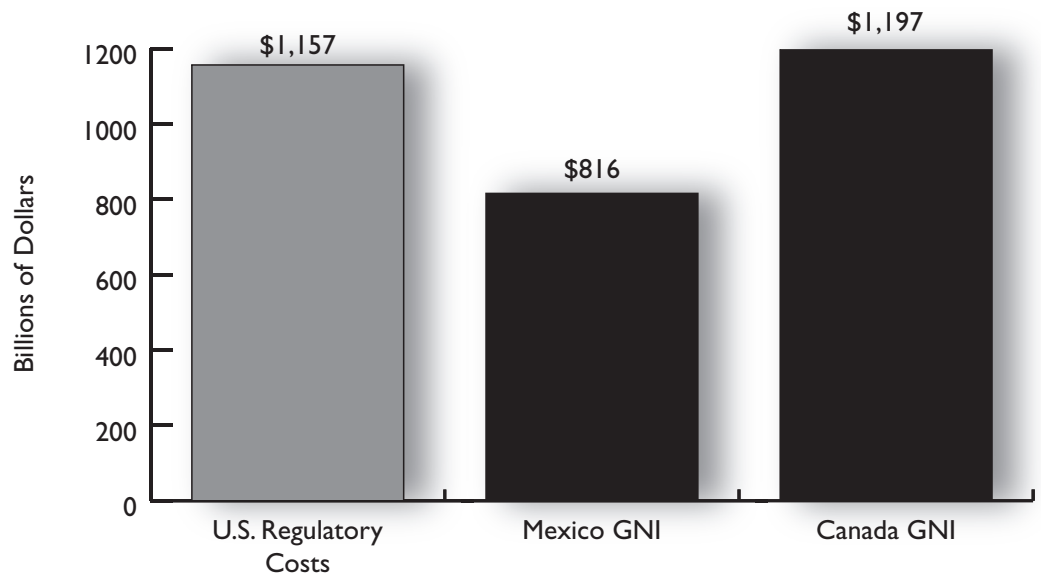
Trillion-dollar deficits and regulatory costs in the trillions are both unsettling new developments for America.

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



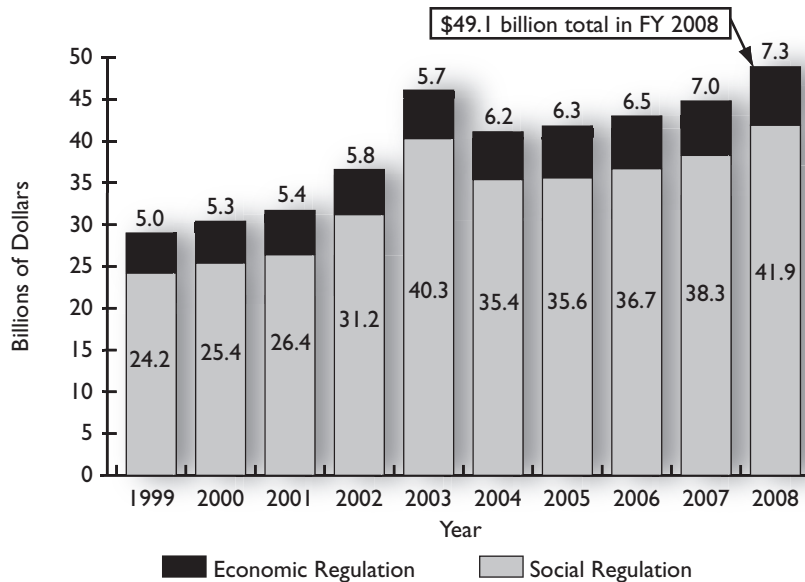
Sources: W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>. Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2009*, Table 457, "Federal Receipts by Source: 1990 to 2008," <http://www.census.gov/compendia/statab/tables/09s0457.pdf>. Profits from U.S. Census Bureau, *Statistical Abstract of the United States: 2009*, Table 763, "Corporate Profits before Taxes by Industry: 2000 to 2006," <http://www.census.gov/compendia/statab/tables/09s0763.pdf>. 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: W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>. GNI figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2008*, Table 1305, "Gross National Income (GNI) by Country: 2000 and 2006," <http://www.census.gov/compendia/statab/tables/09s1305.pdf>.

Figure 5. Agency Enforcement Budgets, 1998-2008
(billions of constant 2007 dollars)



Sources: Veronique De Rugy and Melinda Warren, "Regulatory Agency Spending Reaches New Height: An Analysis of the U.S. Budget for Fiscal Years 2008 and 2009," *Regulators' Budget Report 30*, published jointly by the Weidenbaum Center and the Mercatus Center, August 2008, p. 30, http://www.mercatus.org/uploadedFiles/Mercatus/Publications/1-regulatoryagency20080807_wc-regulators_budget_09.pdf.

Original 2000 constant dollars are adjusted by the change in the consumer price index between 2000 and 2007, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2009*, Table 703, "Consumer Price Indexes (CPI-U) by Major Groups: 1990 to 2007," <http://www.census.gov/compendia/statab/tables/09s0703.pdf>.

compliance costs paid by the parties they regulate, the amounts are disclosed in the federal budget. FY 2008 enforcement costs incurred by federal departments and agencies stood at \$49.1 billion (constant 2007 dollars), an 8 percent increase over the previous year (Figure 5).²⁹ Of that amount, \$7.3 billion was spent administering economic regulation. The larger amount spent for writing and enforcing social and environmental regulations was \$41.9 billion. Those enforcement costs help complete the picture of the regulatory apparatus. Adding the \$49.1 billion in administrative costs tabulated by the Weidenbaum Center and Mercatus Center to the Crain \$1.172 trillion estimate for compliance costs brings the total 2008 regulatory burden to roughly \$1.221 trillion.

Estimated full-time-equivalent employment staffing reached 255,630 in FY 2008, according to the Weidenbaum and Mercatus report.³⁰ That figure is 48 percent above staffing levels in 2001. The initial jump after 2001 was largely attributable to the newly created Transportation Security Administration's one-time hiring of thousands of airport screening personnel. Over the past year alone, staffing is up by 7 percent. (According to an analysis made about this time last year, even excluding the new Transportation Security Administration personnel, government staffing rose by nearly 11 percent, and costs increased 30 percent.)³¹

Federal Register Analysis

Tens of Thousands of Pages in the Federal Register

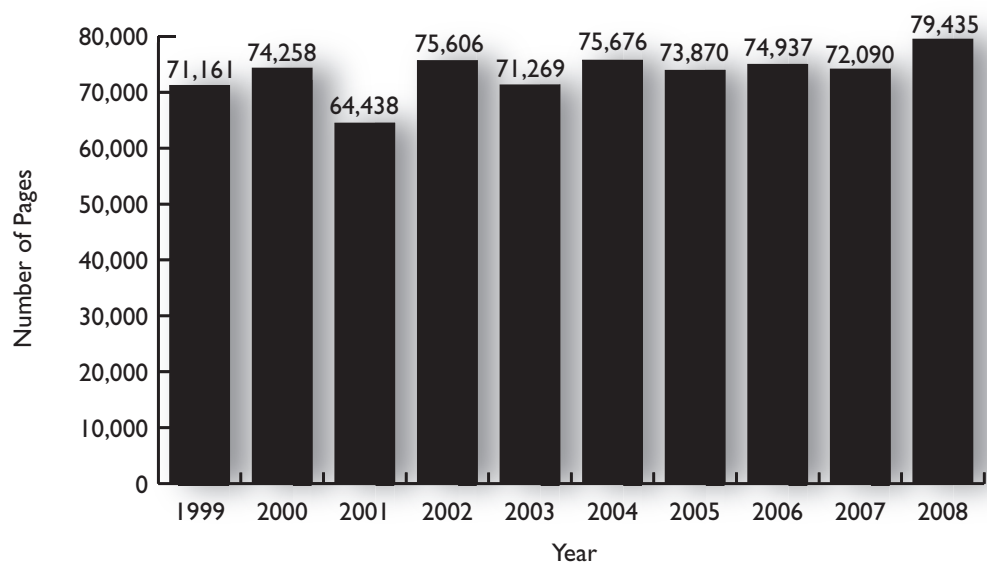
The wordiness of rules will vary, thus affecting the number of pages and obscuring the real effects of the underlying rules.

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 the scope of regulation. Yet serious problems exist with using the number of pages alone as a proxy for regulation. For example, several thousand rules from 2002 pertain to the Justice Department's Microsoft settlement—not a very good gauge of what was going on governmentwide. Many rules now pertain to homeland security, an important pursuit in general regardless of fights over specifics. Even in cases in which OMB issues orders to reduce regulation and in which agencies follow procedures to lessen rules' effects

or burdens, the posting of lengthy notices in the *Federal Register* can be involved. And, of course, there are the 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 long one relatively cheap. Furthermore, the *Federal Register* contains administrative notices, corrections, presidential statements, and other material. And thousands of blank pages sometimes appear as a result of the Government Printing Office's imperfect prediction of the number of pages an agency will require.

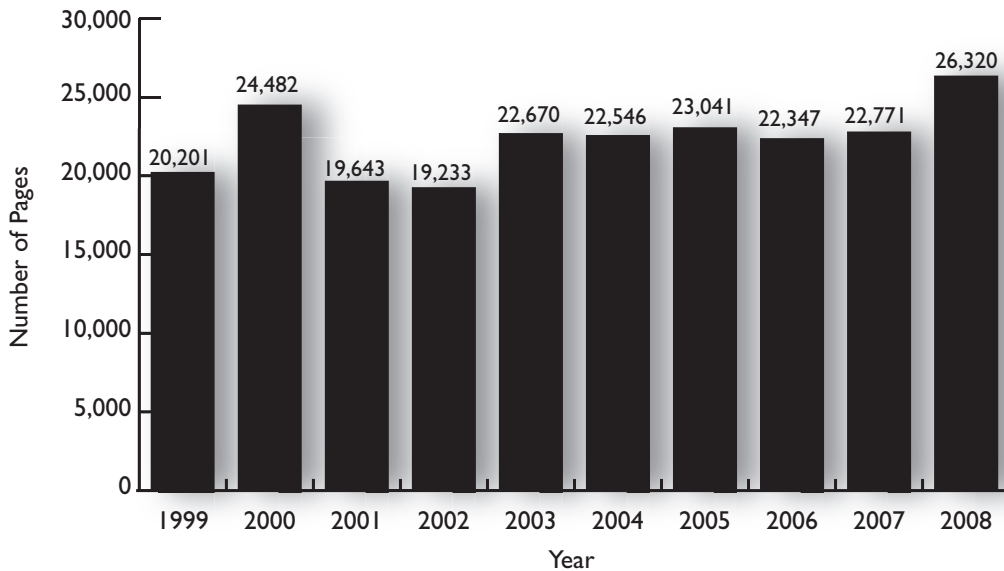
Nonetheless, it is surely worthwhile to track the *Federal Register's* growth through page counts, provided the above caveats are kept in mind. As Figure 6 shows, at the end of

Figure 6. Number of Federal Register Pages, 1999-2008



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

Figure 7. *Federal Register* Pages Devoted to Final Rules, 1999-2008



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

2008, the number of pages stood at an all-time record high of 79,435, an increase of 10 percent from 72,090 pages the year before. The previous record high was 75,676 pages in 2004.

The third-highest page-count record had been 75,606 in 2002 (the year the Microsoft settlement contributed to the total). During 2000, President Bill Clinton's last year in office (when charges were made of issuing "midnight regulations" in advance of President George W. Bush's arrival), pages topped 74,000.³² Page counts have remained high. Over the decade from 1999 to 2008, the overall page count increased by 12 percent. (For a history of *Federal Register* page totals since 1936, see Appendix: Historical Tables, Part A.)

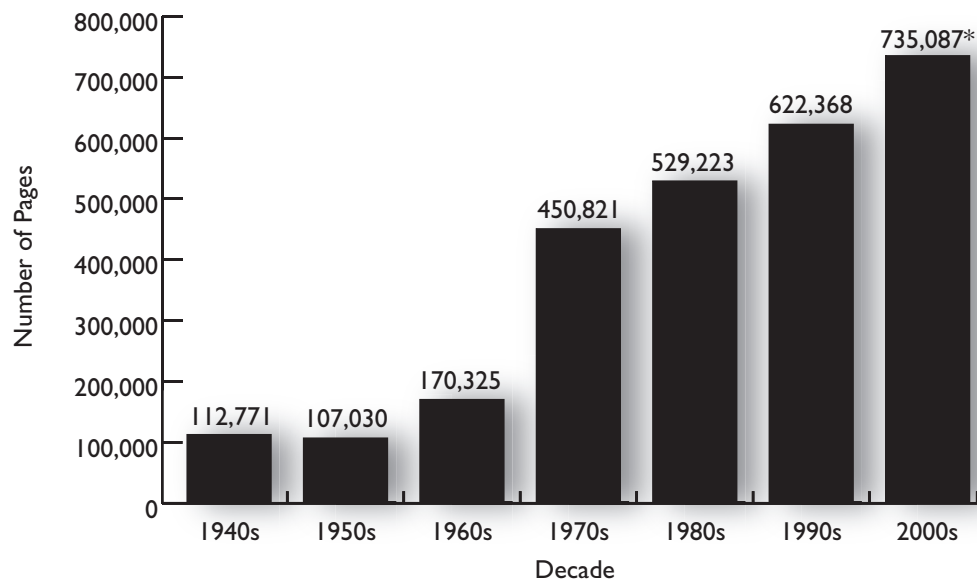
Regulation and agency activity, as gauged by page counts, are at record levels despite the early period having been dominated by presumably more deregulatory congressional Republicans following the 1994 elections. The year 2006 marks the return to Democratic control in Congress. Yet apart from

2001, the last time the number of *Federal Register* pages fell notably was in 1995, when the brand-new Republican congressional reformers specifically made the *Federal Register's* bulk a political issue. (A partial federal government shutdown in 1995, which slowed the promulgation of new regulations for a time, also contributed to the drop that year.)

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. Over the past year, the number of pages devoted to final rules rose by 16 percent—from 22,771 to a record 26,320 (Figure 7). Despite some ups and downs during the decade, the *Federal Register* pages devoted to final rules overall have increased by 30 percent since 1999. The drop right after Clinton's final year in office was noteworthy. Until the new record, the count

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Figure 8. New *Federal Register* Pages per Decade



* Projection based on nine-year average.

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

of 24,482 pages in 2000 under Clinton was the highest since 1976, when the *Federal Register* page-count breakdown by category was first reported. The count in 2000 was up 21 percent over 1999 (possibly because of the aforementioned effort by President Clinton to complete the backlog of rules before the arrival of the Bush administration). The number of final-rule pages rebounded in 2003, remained above 22,000, and last year bounced to 26,000.

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.) So far, in the first nine years of the 21st century,³³ the average is 73,509, which, extrapolated across the remainder of the decade, implies that some 735,087 total pages will ultimately appear—an 18 percent increase over the 1990s. Although the final codification of general and permanent rules as ultimately realized in the Code of

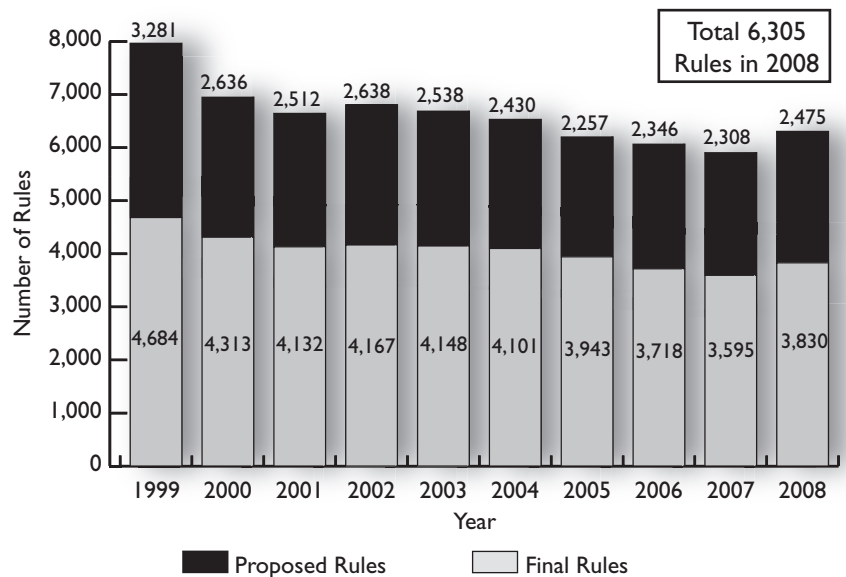
Federal Regulations (CFR) is considerably more modest in terms of numbers—if not in costs—today’s CFR contains 55 percent more pages than that for 1980. Since 1980, the CFR has grown from 102,195 pages to 157,974. By contrast, in 1960, it had only 22,877 pages.

Although one should keep in mind 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 22,000 annually, credibly signify 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 published in the *Federal Register* merit attention. As Figure 9 shows, in 2008 the total number of proposed and final rules published rose to 6,305 from 5,903 in 2007, a 7-percent increase. The number of rules actu-

Figure 9. Number of Rules Published in the *Federal Register*, 1999-2008



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

ally finalized by federal agencies in 2008 rose also—from 3,595 to 3,830, a 6.5 percent increase. Despite the last year’s 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. So far, the average for the current decade (2000-2008) is 3,994. That is a positive trend; but, as noted before, recent budgetary spending surges point toward likely higher levels of future regulation. (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 well over 55,000 final rules were issued from 1995 to 2008 (a period dominated by Republican congressional control during the early years). Although the costs of those rules can vary tremendously, that number represents a substantial yield of rules and regulations.

Analysis of the Regulatory Plan and Unified Agenda

4,004 New Rules in the Pipeline

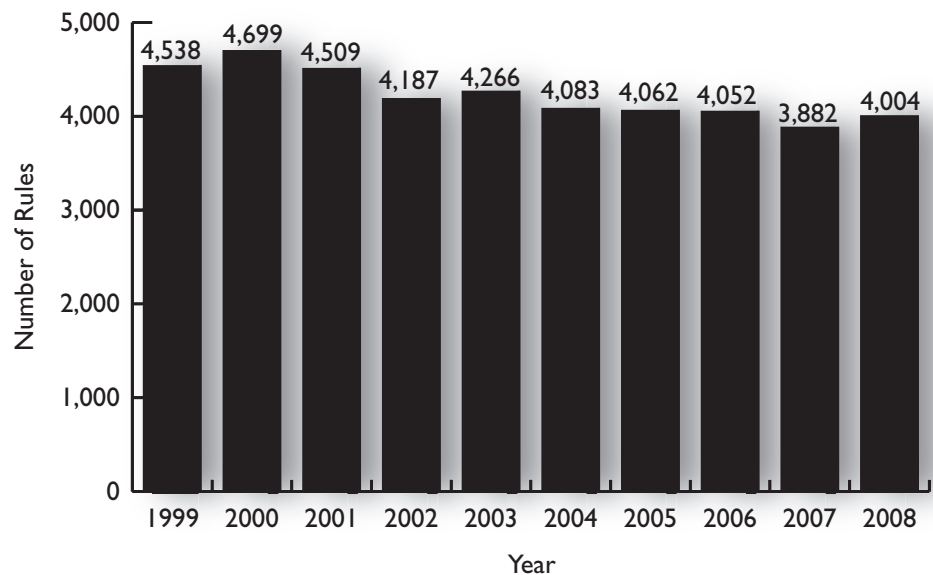
The “Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions” appears in the *Federal Register* each December. Detailing rules recently completed, plus those anticipated within the upcoming 12 months by the roughly 60 federal departments, agencies, and commissions, the Agenda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

The Agenda lists federal regulatory actions at several stages: prerule, proposed and final rules, actions completed during the past few months, and anticipated longer-term rule-makings. The Agenda functions as a cross-

sectional snapshot of rules moving through the pipeline. Therefore, the rules it contains may carry over at the same stage from one year to the next, or they may reappear in subsequent Agendas at different stages. The Agenda’s rules primarily affect the private sector, but many also affect state and local governments and the federal government itself.

The 2008 Agenda finds federal agencies, departments, and commissions at work on 4,004 regulations from the prerule to the just-completed stages.³⁴ This level is up by 3 percent from 3,882 in 2007 (see Figure 10), but is still lower than prior years. The number of rules in the Agenda peaked

Figure 10. Total Agency Rules in the Unified Agenda Pipeline, 1999-2008



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

at 5,119—14 years ago in 1994—and the count has remained above 4,000 except in 2007. (For a history of numbers of rules in the Unified Agenda since 1983, see Appendix: Historical Tables, Part C.)³⁵

Table 3 breaks down the 4,004 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, Agriculture, Commerce, and the Interior, along with the Environmental Protection Agency—were the biggest rule-makers. Those “top five,” with 1,837 rules among them, account for 46 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.)

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 concerning importation of unmanufactured wood articles (solid-wood packing material)
- Bovine spongiform encephalopathy: minimal risk regions and importation of commodities
- Nutrition labeling of single-ingredient and ground or chopped meat and poultry products

Department of Commerce

- Right whale ship strike reduction

Table 3. Unified Agenda Entries by Department and Agency, December 2008 (continued on next page)

	Total Rules	Reg. Plan	Agenda
Department of Agriculture	374	19	355
Department of Commerce	325	9	316
Department of Defense	109	4	105
Department of Education	17	1	16
Department of Energy	54	3	51
Department of Health and Human Services	236	8	228
Department of Homeland Security	252	32	220
Department of Housing and Urban Development	73	2	71
Department of the Interior	287	2	285
Department of Justice	138	2	136
Department of Labor	96	7	89
Department of State	27	0	27
Department of Transportation	200	7	193
Department of the Treasury	521	1	520
Department of Veterans Affairs	80	0	80
Environmental Protection Agency	330	11	319
Agency for International Development	7	0	7
Architectural and Transportation Barriers Compliance Board	5	0	5
Commission on Civil Rights	2	0	2
CPBSD*	3	0	3
Commodity Futures Trading Commission	25	0	25
Consumer Product Safety Commission	31	1	30
Corporation for National and Community Service	7	0	7
Court Services/Offender Supervision, D.C.	2	0	2
Federal Acquisition Regulation	44	0	44
Equal Employment Opportunity Commission	5	2	3
Farm Credit Administration	19	0	19
Farm Credit System Insurance Corporation	1	0	1
Federal Communications Commission	143	0	143
Federal Council on the Arts and the Humanities	1	0	1
Federal Deposit Insurance Corporation	19	0	19
Federal Energy Regulatory Commission	39	0	39
Federal Housing Finance Agency	10	0	10
Federal Housing Finance Board	3	0	3
Federal Maritime Commission	3	0	3
Federal Mediation and Conciliation Service	2	0	2
Federal Reserve System	18	0	18
Federal Trade Commission	17	0	17
General Services Administration	54	0	54

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

Table 3. Unified Agenda Entries by Department and Agency, December 2008 (continued)

	Total Rules	Reg. Plan	Agenda
Institute of Museum and Library Services	2	0	2
National Aeronautics and Space Administration	19	0	19
National Archives and Records Administration	10	1	9
National Credit Union Administration	22	0	22
National Endowment for the Arts	3	0	3
National Endowment for the Humanities	3	0	3
National Indian Gaming Commission	18	1	17
National Science Foundation	3	0	3
Nuclear Regulatory Commission	54	0	54
Office of Federal Housing Enterprise Oversight	10	0	10
Office of Government Ethics	6	0	6
Office of Management and Budget	2	0	2
Office of Personnel Management	80	0	80
Peace Corps	7	0	7
Pension Benefit Guaranty Corporation	12	0	12
Postal Regulatory Commission	2	1	1
Railroad Retirement Board	3	0	3
Securities and Exchange Commission	72	0	72
Selective Service System	1	0	1
Small Business Administration	26	1	25
Social Security Administration	64	14	50
Surface Transportation Board	6	0	6
TOTAL	4,004	129	3,875

Source: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 73, No. 227, November 24, 2008; and from online edition at <http://www.reginfo.gov>.

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

- CAPPS II (the 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
- Secure Flight Program
- US-VISIT (the 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

Table 4. Top Rule-Producing Departments or Agencies, 2008

Department or Agency	Number of Regulations
1. Department of the Treasury	521
2. Department of Agriculture	374
3. Environmental Protection Agency	330
4. Department of Commerce	325
5. Department of the Interior	287
TOTAL	1,837

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, boilers, 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 member 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

Environmental Protection Agency

- Rulemaking to address greenhouse gas emissions from motor vehicles
- Clean air visibility, mercury, and ozone implementation rules

A subset of the Agenda's 4,004 rules is classified as "economically significant," meaning that agencies anticipate yearly economic impacts of at least \$100 million apiece.

- 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 for bedclothes
- Banning of certain backyard play sets
- Product registration cards for products intended for children

Federal Communications Commission

- Broadband over power line systems
- Mobile personal communications by satellite
- Satellite broadcasting signal carriage requirements
- Rules regarding Internet Protocol-enabled devices

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 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 4,004 rules is classified as "economically significant," meaning that agencies anticipate yearly economic impacts of at least \$100 million apiece. Those impacts generally mean increased costs, although occasionally an economically significant rule is intended to reduce costs. As Table 5 shows, 180 new economically significant rules are under consideration by 23 separate departments and agencies at the prerule, proposed rule, final rule, long-term, and recently completed stages. This number is a 13.2-percent increase over the 159 high-cost rules in 2007 (the prior year saw a 14.4 percent increase). See Figure 11, which also depicts the number of economically significant rules from the year-end Agendas for the 2004-2008 period.

High-cost "economically significant" rules are scattered among the 4,004 rules in the Agenda. Because each will have an annual impact of at least \$100 million, those rules can be expected to impose annual costs on the order of \$18 billion (180 rules multiplied by \$100 million). Some rules may reduce costs, but not typically. (For a full list of the 180 economically significant rules, see Appendix: Historical Tables, Part E.)

A breakdown of the \$18 billion in regulatory costs (and sometimes benefits) is

Table 5. 180 Rules in the Pipeline Expected to Cost More than \$100 Million Annually, 2008

	Rules
Department of Agriculture	19
Department of Commerce	3
Department of Defense	3
Department of Education	3
Department of Energy	11
Department of Health and Human Services	44
Department of Housing and Urban Development	3
Department of Homeland Security	15
Department of Justice	4
Department of the Interior	6
Department of Labor	12
Department of State	1
Department of Transportation	19
Department of the Treasury	3
Department of Veterans Affairs	2
Environmental Protection Agency	16
Consumer Product Safety Commission	2
Federal Acquisition Regulation	1
Federal Communications Commission	7
Postal Regulatory Commission	1
Federal Deposit Insurance Corporation	2
Nuclear Regulatory Commission	1
Social Security Administration	2
TOTAL	180

Source: Compiled from "The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 73, No. 227, November 24, 2008; and from online edition at <http://www.reginfo.gov>.

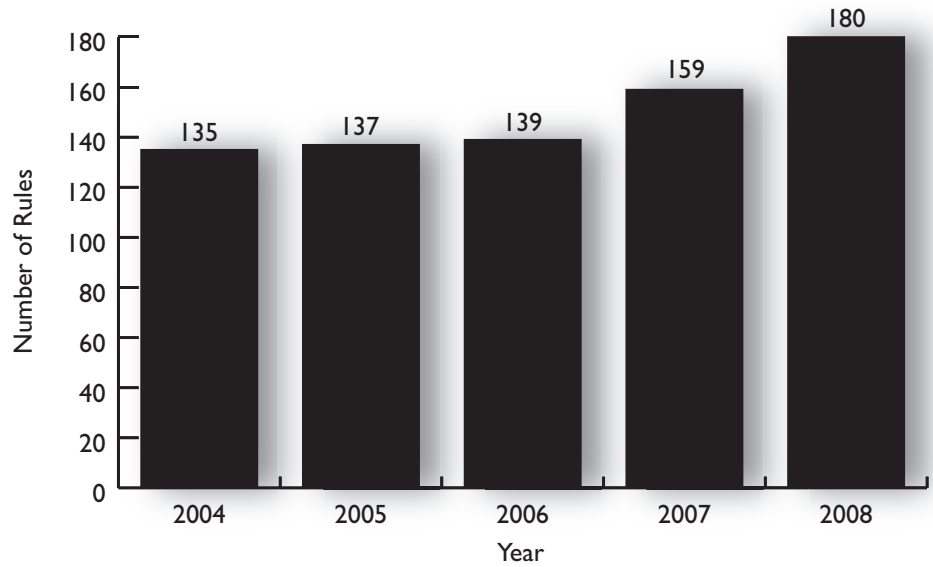
rarely presented directly for each rule in the Agenda. Actual costs can best be found by combing through the document or searching online. Rather than accumulate and summarize regulatory costs for the readers' benefit, each Agenda entry indicates whether a rule is economically significant and occasionally provides additional cost data from agency regulatory impact analyses. Note also that even though the \$18 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 costs that come in the future.

Nor are agencies required to limit their activity to what they publish in the Agenda:

The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.³⁶

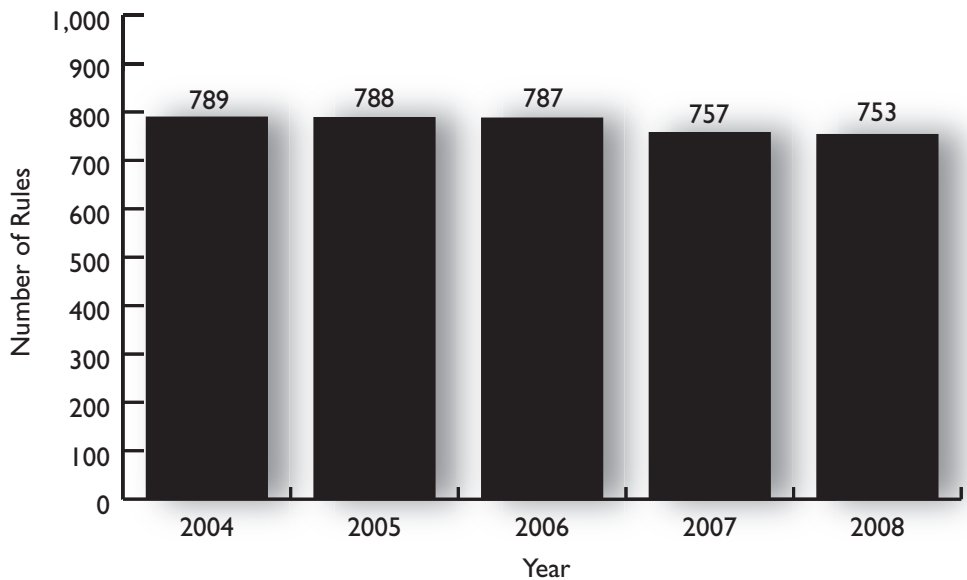
Finally, the fact that policy makers and analysts pay the most attention to economically significant rules should not lull them into ignoring the remaining bulk of rules in the yearly pipeline. In 2008, 3,824 federal rules were not considered economically significant by the government (4,004 total rules minus

Figure 11. “Economically Significant” Rules in the Agenda Pipeline, 2004-08



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

Figure 12. Rules Affecting Small Business, 2004-08



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>.

the 180 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. 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 regulatory agendas identifying those rules that may have a significant economic impact on a substantial number of small entities.”³⁷ In that light, as Figure 12 shows, annual rules significantly affecting small business have dipped just slightly in recent years, from 789 to 753 since 2004.

Table 6 breaks out the 2008 Agenda’s 753 rules affecting small business by depart-

Table 6. Unified Agenda Entries Affecting Small Business by Department, Agency, and Commission, December 2008 (continued on next page)

	Total Rules	Number Affecting Small Business			% Affecting Small Business
		RFA Required	RFA Not Required	Total	
Department of Agriculture	374	55	38	93	24.9
Department of Commerce	325	90	17	107	32.9
Department of Defense	109	0	7	7	6.4
Department of Education	17	0	0	0	0.0
Department of Energy	54	0	1	1	1.9
Department of Health and Human Services	236	58	35	93	39.4
Department of Homeland Security	252	10	32	42	16.7
Department of Housing and Urban Development	73	1	0	1	1.4
Department of the Interior	287	0	18	18	6.3
Department of Justice	138	2	0	2	1.4
Department of Labor	96	7	22	29	30.2
Department of State	27	0	3	3	11.1
Department of Transportation	200	18	23	41	20.5
Department of the Treasury	521	0	47	47	9.0
Department of Veterans Affairs	80	0	2	2	2.5
Environmental Protection Agency	330	7	76	83	25.2
Agency for International Development	7	0	0	0	0.0
Architectural and Transportation Barriers Compliance Board	5	0	0	0	0.0
Commission on Civil Rights	2	0	0	0	0.0
CPBSD*	3	0	0	0	0.0
Commodity Futures Trading Commission	25	0	1	1	4.0
Consumer Product Safety Commission	31	0	0	0	0.0
Corporation for National and Community Service	7	0	0	0	0.0
Court Services/Offender Supervision, D.C.	2	0	0	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 2008 (continued)

	Total Rules	Number Affecting Small Business			% Affecting Small Business
		RFA Required	RFA Not Required	Total	
Federal Acquisition Regulation	44	5	1	6	13.6
Equal Employment Opportunity Commission	5	0	2	2	40.0
Farm Credit Administration	19	0	0	0	0.0
Farm Credit System Insurance Corporation	1	0	0	0	0.0
Federal Communications Commission	143	106	4	110	76.9
Federal Council on the Arts and the Humanities	1	0	0	0	0.0
Federal Deposit Insurance Corporation	19	0	0	0	0.0
Federal Energy Regulatory Commission	39	0	0	0	0.0
Federal Housing Finance Agency	10	0	0	0	0.0
Federal Housing Finance Board	3	0	0	0	0.0
Federal Maritime Commission	3	0	3	3	100.0
Federal Mediation and Conciliation Service	2	0	0	0	0.0
Federal Reserve System	18	2	3	5	27.8
Federal Trade Commission	17	0	13	13	76.5
General Services Administration	54	5	2	7	13.0
Institute of Museum and Library Services	2	0	0	0	0.0
National Aeronautics and Space Administration	19	0	0	0	0.0
National Archives and Records Administration	10	0	0	0	0.0
National Credit Union Administration	22	0	3	3	13.6
National Endowment for the Arts	3	0	0	0	0.0
National Endowment for the Humanities	3	0	0	0	0.0
National Indian Gaming Commission	18	0	0	0	0.0
National Science Foundation	3	0	0	0	0.0
Nuclear Regulatory Commission	54	1	0	1	1.9
Office of Federal Housing Enterprise Oversight	10	0	0	0	0.0
Office of Government Ethics	6	0	0	0	0.0
Office of Management and Budget	2	0	0	0	0.0
Office of Personnel Management	80	0	0	0	0.0
Peace Corps	7	0	0	0	0.0
Pension Benefit Guaranty Corporation	12	0	0	0	0.0
Postal Regulatory Commission	2	0	0	0	0.0
Railroad Retirement Board	3	0	0	0	0.0
Securities and Exchange Commission	72	18	1	19	26.4
Selective Service System	1	0	0	0	0.0
Small Business Administration	26	12	1	13	50.0
Social Security Administration	64	0	1	1	1.6
Surface Transportation Board	6	0	0	0	0.0
TOTAL	4,004	397	356	753	18.8

Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 72, No. 236, December 10, 2007; and from online edition at <http://www.reginfo.gov>.

Note: RFA = regulatory flexibility analysis.

ment, agency, and commission. Four of them—the departments of Agriculture, Commerce, and Health and Human Services, and the Federal Communications Commission—account for 403, or 53 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 small business, as noted in Table 6, stands at 18.8 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 at-

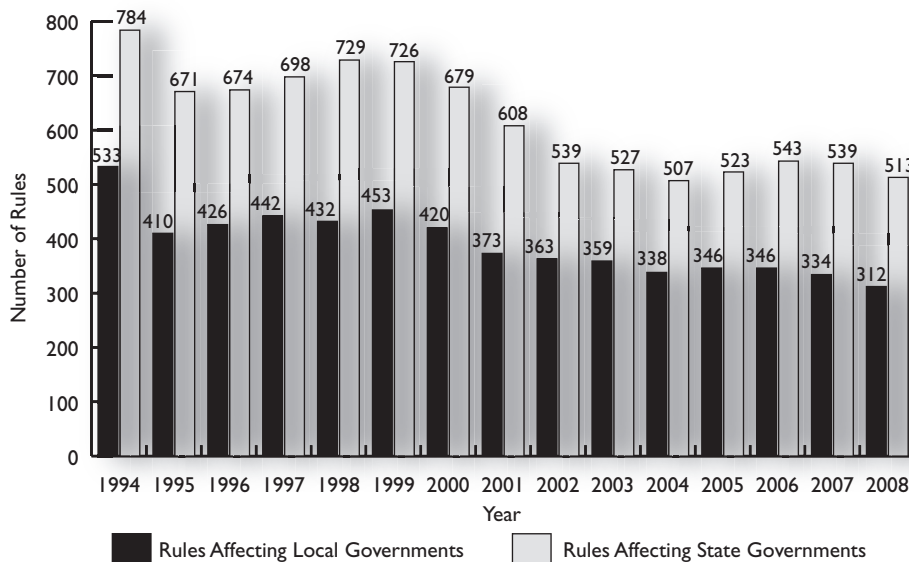
ention to legislation's effect on states and localities.

As Figure 13 shows, agencies report that 312 of the 4,004 rules in the 2008 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 41 percent, from 533 to 312. Figure 13 also shows that the total number of regulatory actions affecting state governments dipped a bit over the past year (from 539 to 513). Over the period since passage of the unfunded mandates legislation, the count has dropped from 784 to 513, a 35 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

Figure 13. Rules Affecting State and Local Governments, 1994-2008



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>.

Table 7. GAO Reports on Major Rules, 1998-2007

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Achitectural Barriers Compliance Board			1				1			
Dept. of Agriculture	5	6		9	7	4	7	6	8	7
Dept. of Commerce	1	5		2			1			2
Dept. of Defense	2	1		3	2			1		
Dept. of Education		1							2	1
Dept. of Energy			3	3	1	1				3
Dept. of Health and Human Services	18	7	17	15	13	17	22	22	16	19
Dept. of Homeland Security						2	2	3	2	4
Dept. of Housing and Urban Development		1	2	1			1	1		
Dept. of Justice	1			4	3		1	1	1	
Dept. of Labor	2		5	3	2		1	1	3	3
Dept. of the Interior	7	6	9	8	7	7	8	6	6	5
Dept. of Transportation	1	4		3	6	4	5	3	1	3
Dept. of the Treasury	1			1		1	1		1	1
Dept. of Veterans Affairs				3	1	2		1		1
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
Federal Acquisition Regulation										
Federal Communications Commission	16	6	6	3	3	2	4	1	1	2
Federal Emergency Management Agency			2	3	1					
Federal Reserve System			1		1		1			
Federal Trade Commission			1					1		
National Credit Union Administration	1									
Nuclear Regulatory Commission	2	1	2	1	1	1	1	1	1	2
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
Small Business Administration	1		1	1			1			
Social Security Administration		3	1					1	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

Source: Compiled from GAO data.

Note: HIPAA = Health Insurance Portability and Accountability Act.

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 a glimpse 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 lower-level 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 Government Accountability Office (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 workplace 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 2007. The Department of Health and Human Services and the Department of Agriculture are among the most active. The coming years will be instructive on how increased federal spending may affect the generation of major rules.

A 2008 Heritage Foundation analysis of the George W. Bush administration’s tenure 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 useful compilation found that 74 major rules increased burdens, whereas 23 reduced them.⁴⁰ The net result at that time was that new regulatory costs of \$28 billion had been imposed since the onset of the Bush administration.⁴¹

Regulation and the Federal Communications Commission

Although by no means the heaviest regulator, the FCC is worth singling out for review in today's information economy.

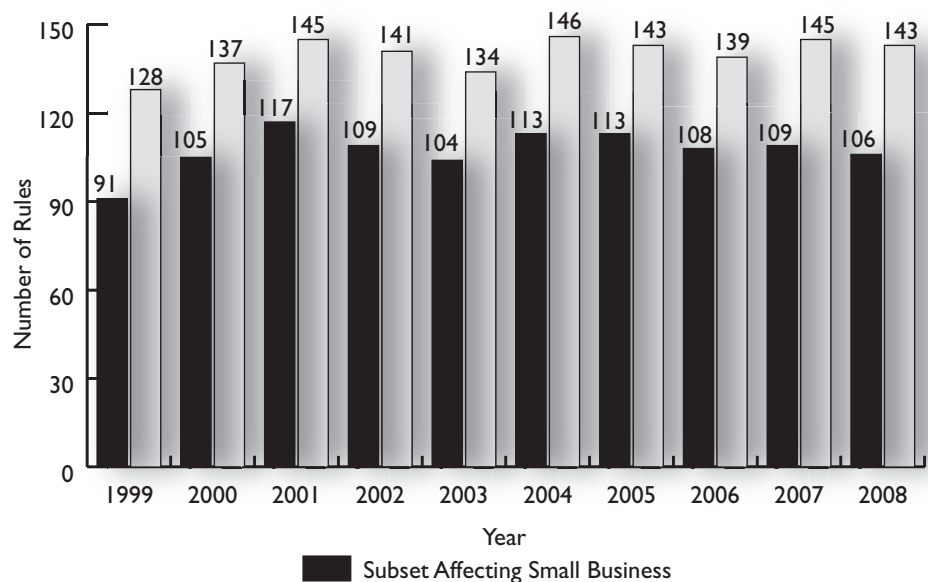
Although by no means the heaviest regulator, the Federal Communications Commission (FCC) is worth singling out for review in today's information economy. (Indeed, the FCC is surpassed in the overall number of rules by eight other agencies and in the number of economically significant rules by seven others—see Tables 3 and 5, respectively.) The FCC spent an estimated \$420 million to enforce regulation during FY 2008; the Environmental Protection Agency, meanwhile, spent vastly more at \$4.9 billion, accounting for 10 percent of the total expected to be spent by all the regulatory agencies.⁴²

Of the 4,004 rules in the 2008 Unified Agenda pipeline, 143, or about 3.6 percent, were in the works at the FCC. The number

of rules from the FCC has risen by 12 percent since 1999 (Figure 14). Rules dipped slightly over the past year, from 145 to 143. Also shown in Figure 14 is the subset of FCC rules that register some effect on small business. Since 1999, that category of rules has risen by 16 percent, moving from 91 to 106.

A central regulatory stance remains in fashion at the FCC, despite massive innovations in telecommunications and in customized, consumer-oriented, and user-driven multimedia, and despite the increasingly obsolete nature of the FCC's original mandate to police allegedly public airwaves and scarcity of the radio spectrum. Today's vibrant, robust, and duplicative communications markets are not fragile mechanisms requiring fine-tuning

Figure 14. Number of FCC Rules, 1999-2008



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>.

by (allegedly impartial) government bodies. Communications markets do not abuse and harass consumers in a manner requiring endless rulemaking with respect to every new technological advance.

Nonetheless, now under consideration at the FCC is a notice of inquiry to examine both the broadband industry practices and the applicability of “Net neutrality” to the communications sector. The FCC has held a number of hearings and workshops on these matters. Indeed, far from embracing any deregulatory outlook or hands-off stance, FCC commissioners recently occupied themselves contemplating new rules for multicast multicast carry regulation, cable à la carte, media ownership restrictions, indecency, video game violence, and wireless Net neutrality.

Of the 180 economically significant rules in the works across the entire federal government, seven rules are from the FCC (refer to Table 5); there were eight the previous year. Those seven economically significant FCC rules, all holdovers from earlier years, appear in Box 1. Such sweeping rulemakings (and the 136 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. Liberalizing communications markets requires a conscious effort to shift “regulation” from the FCC to the superior discipline of competitive markets. Today’s debates inadequately reflect that mindset.

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

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

- Broadband over power lines (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 Service; Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States.
- Transfer of the 3,650-3,700-MHz band from federal government use: “Proposes to allow unlicensed devices to operate in all, or part, of the 3,650-MHz band at higher power levels than usually permitted for unlicensed services. These devices would be subject to smart (or cognitive) requirements and other safeguards designed to prevent interference to the licensed FSS [Frequency Selective Surface] earth stations now resident in the band.”
- Service rules for the 746-764 and 776-794 megahertz bands 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.”
- Hearing aid-compatible telephones: “Modifies exemptions for wireless phones under the Hearing Aid Compatibility Act of 1988 to require that digital wireless phones be capable of being effectively used with hearing aids. It finds that modifying the exemption will extend the benefits of wireless telecommunications to individuals with hearing disabilities—including emergency, business, and social communications—thereby increasing the value of the wireless network for all Americans.”
- 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.”

Ending Regulation without Representation

Steps toward Improving Regulatory Disclosure

Regulatory compliance costs exceed \$1 trillion annually and receive little official scrutiny; therefore, 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 authoritative regulatory accounting, OMB's 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. The regulatory data that are available should be officially summarized and publicly disclosed to help create pressures for better data. 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 many other compilations. That simple step alone would help transform today's regulatory hidden tax culture to one of more openness.

Indeed, regulations dwarf the \$150-billion “economic stimulus package” passed in early 2008, and their rollback would constitute the *deregulatory stimulus* that the U.S. economy needs. It would offer some certainty or confidence to small businesses seeking a foothold in a shaky or weak economy.

Although regulatory cost disclosure should be a priority, a protracted legislative fight over comprehensive “cost-benefit” should be avoided. Better would be halting Congress's excessive delegation of legislative

power to unelected agency personnel in the first place. Such an institutional change would force Congress to internalize pressures to make cost-benefit assessments before issuing directives to agencies. Elected representatives must assume responsibility and must end “regulation without representation” to rein in the off-budget regulatory costs.

Regulations fall into two broad classes: those that are economically significant (costing more than \$100 million annually) and those that are not. Agencies typically emphasize the 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 can slide unobserved below the threshold. Moreover, agencies need not specify whether any or all of their economically significant rules cost only \$100 million—or something far beyond. 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 one 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 economically significant rules or on the basis of separate internal or external estimates.

Although modest, such steps toward greater disclosure could be important. Today, to learn about regulatory trends and to accumulate information on rules—such as num-

Without any authoritative regulatory accounting, OMB's 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.

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

bers produced by each agency, their costs and benefits (if available), and so on—interested citizens must comb through the Agenda’s 1,000-plus pages of small, multicolumn print, or they must compile results from on-line searches. Useful regulatory information is available, but it is often tediously difficult to compile; the Agenda could be made more user-friendly.

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 initiative, such as any “reinventing government,” or regulatory reform effort. Providing five-year historical data would tremendously enhance the Agenda’s usefulness. Paradoxically, one of the virtues of a regulatory report card is that it would reveal more

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
- Numbers or percentages of rules affecting small business and lower-level governments
- Numbers or percentages of rules featuring numerical cost estimates
- Tallies of existing cost estimates, with subtotals by agencies, and grand total
- Numbers or percentages 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 and proposed and final rule breakdowns by agency
- Numbers 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; number carried over from previous years
- Numbers or percentages of rules required by statute versus discretionary rules
- Numbers or percentages of rules facing statutory or judicial deadlines
- Rules for which weighing costs and benefits is statutorily prohibited

clearly what we *don't* 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.

“No Regulation without Representation”

Years of unbudgeted regulatory growth merit concern when we simply do not know whether regulatory benefits exceed costs. But agencies are not the real culprits. Congress regularly shirks its constitutional duty to make the tough calls. It delegates considerable lawmaking power to agencies, and then it fails to ensure that they deliver benefits that exceed costs.⁴³ 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 employees—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 3,830 final rules, whereas Congress passed and President Bush signed into law a comparatively low 285 bills in 2008.⁴⁴

But, as noted, regulatory agencies are at work on 4,004 rules. The unelected are doing a sizable bulk of U.S. lawmaking. Because agencies never answer to voters, an annual regulatory report card is a start but

not a complete answer. And the regulatory reforms that rely on agencies’ policing themselves are not capable of harnessing 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 not to merely require agencies to perform cost-benefit analyses, but 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 yawning 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 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—or Congress could simply pass a law requiring Fortune 500 companies to fund job training. That law, of course, would be carried out through new regulations issued by the Labor Department. The latter option would add little to federal spending but would, nonetheless, let Congress take credit. By regulating instead of spending, government can expand almost indefinitely without explicitly taxing anybody one extra penny.

Making Congress as accountable for regulation as for legislation is a prerequisite for control of the off-budget regulatory state. Requiring explicit approval of all proposed regulations would ensure that Congress bore direct responsibility for every dollar of new regulatory costs. To allay the concern that 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 voice vote, signifying unanimity, rather than by tabulated roll call

One need not waste time blaming agencies for carrying out the very regulating they were set up to do in the first place.

vote. The important thing is that Congress be held accountable.

Whatever improvements in disclosure might be made, however, congressional approval—rather than agency approval—of both regula-

tions and regulatory costs should be the goal of regulatory reform. When Congress ensures transparency and disclosure and when it finally assumes responsibility for the growth of the regulatory state, it will have put in place a system that is more accountable to voters.

Appendix of Historical Tables

Part A. Federal Register Page History, 1936-2008

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

n/a = not available.

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

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

Part B. Number of Documents in *Federal Register*, 1976-2008

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

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, 1983-2008

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			
1988	April	3,941	1995	April	5,133			
	October	4,017		October	4,735			
1989	April	4,003	1996	April	4,570			
	October	4,187		October	4,680			
			1997	April	4,417			
				October	4,407			
			1998	April	4,504			
				October	4,560			
			1999	April	4,524			
				October	4,568			

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 D. Agenda Rules History by Department and Agency, 1998-2007 (continued on next page)

	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
Department of Agriculture	290	311	292	279	323	314	312	327	345	384
Department of Commerce	303	302	296	273	300	270	342	390	366	344
Department of Defense	131	143	163	126	108	87	93	117	121	142
Department of Education	13	16	9	11	13	14	8	21	32	20
Department of Energy	47	63	61	50	66	53	61	67	64	63
Department of Health and Human Services	259	257	249	233	219	219	277	308	300	351
Department of Homeland Security	267	280	295	314	338					
Department of Housing and Urban Development	86	92	90	103	109	100	89	113	128	102
Department of the Interior	264	305	303	287	295	298	423	418	309	337
Department of Justice	140	139	124	125	122	249	229	202	201	186
Department of Labor	94	93	93	88	89	102	141	156	151	149
Department of State	28	28	24	21	15	41	32	21	27	22
Department of Transportation	199	215	227	301	365	543	511	536	539	518
Department of the Treasury	545	501	514	532	530	513	458	450	400	438
Department of Veterans Affairs	65	77	76	79	87	104	164	141	130	118
Advisory Council on Historic Preservation	0	0		1	1	1	0	1	1	1
Agency for International Development	10	8	10	8	8	7	6	6	5	7
Architectural and Transportation Barriers Compliance Board	5	4	3	4	4	5	5	7	8	9
Commission on Civil Rights	1	1	1	1	1	1	1	1	1	1
CPBSD*	5	6	6	5	0	0	0	0	0	0

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

Part D. Agenda Rules History by Department and Agency, 1998-2007 (continued)

	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998
Corporation for National and Community Service	9	11	11	8	9	16	9	6	4	6
Court Services/Offender Supervision, D.C.	2	1	1	1	3	7	5	0	0	0
Environmental Protection Agency	336	372	400	416	417	409	416	449	456	462
Equal Employment Opportunity Commission	7	8	6	3	4	4	3	6	9	10
Federal Mediation and Conciliation Service	1	1	2	2	3	4	3	2	1	1
Federal Emergency Management Agency	0	0	0	0	0	24	30	26	33	25
General Services Administration	26	34	33	27	37	40	35	40	51	49
National Aeronautics and Space Administration	11	15	20	27	34	13	17	11	7	11
National Archives and Records Administration	15	21	17	22	19	20	19	21	21	19
Institute of Museum and Library Services	1	1	4	3	6	5	5	4	1	1
National Endowment for the Arts	2	2	2	2	6	5	5	5	5	5
National Endowment for the Humanities	3	3	3	3	8	9	8	7	6	6
National Science Foundation	0	2	3	3	2	2	3	5	4	5
Office of Federal Housing Enterprise Oversight	9	8	6	4	4	7	9	5	5	4
Office of Government Ethics	9	8	7	7	9	10	11	11	12	12
Office of Management and Budget	1	2	2	3	4	4	5	5	9	11
Office of Personnel Management	75	93	94	103	90	72	91	110	112	101
Panama Canal Commission	0	0	0	0	0	0	0	0	4	5
Peace Corps	6	6	5	4	9	9	9	8	5	5
Pension Benefit Guaranty Corporation	12	13	9	6	4	6	11	10	12	12
Railroad Retirement Board	2	6	5	6	11	13	13	19	16	17
Selective Service System	1	1	1	1	1	1	1	1	1	1
Small Business Administration	28	32	34	29	33	40	37	41	35	25
Social Security Administration	63	53	68	59	64	63	85	82	67	70
Tennessee Valley Authority	0	0	0	0	2	2	3	3	1	1
U.S. Information Agency	0	0	0	0	0	0	0	0	0	1
Federal Acquisition Regulation	36	42	44	45	49	43	48	56	49	42
Commodity Futures Trading Commission	19	14	11	15	15	19	30	21	19	12
Consumer Product Safety Commission	19	24	18	18	20	20	21	20	17	15
Farm Credit Administration	12	19	20	20	21	14	17	17	19	15
Farm Credit System Insurance Corporation	0	1	1	1	1	1	1	3	3	3
Federal Communications Commission	145	139	143	146	134	141	145	137	128	121
Federal Energy Regulatory Commission	41	47	35	23	21	19	8	18	20	12
Federal Housing Finance Board	3	8	8	9	11	9	12	12	18	17
Federal Maritime Commission	4	3	5	7	11	8	7	9	9	6
Federal Reserve System	20	13	17	18	18	24	32	33	22	30
Federal Trade Commission	14	16	15	14	12	10	13	14	16	16
National Credit Union Administration	24	29	27	26	27	20	22	16	26	14
Federal Deposit Insurance Corporation	18	24	16	20	17	17	22	26	25	26
National Indian Gaming Commission	19	16	15	14	14	16	15	14	14	17
National Labor Relations Board	0	0	0	0	0	0	0	0	0	0
Nuclear Regulatory Commission	53	45	49	42	45	39	42	55	57	63
Office of Special Counsel	0	0	0	0	0	0	0	3	2	1
Overseas Private Investment Corporation	0	0	0	0	0	0	0	0	0	2
Presidio Trust	0	0	2	2	1	2	2	3	3	0
Securities and Exchange Commission	76	71	64	79	71	73	80	77	80	83
Surface Transportation Board	4	7	3	4	5	5	4	3	3	8
Udall Institute for Environmental Conflict Resolution	0	0	0	0	1	1	3	3	3	0
Postal Regulatory Commission	3	0	0	0	0	0	0	0	0	0
Privacy and Civil Liberties Oversight Board	1	0	0	0	0	0	0	0	0	0
TOTAL	3,882	4,052	4,062	4,083	4,266	4,187	4,509	4,699	4,538	4,560

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 180 “Economically Significant” Rules, 2008

From the Regulatory Plan (42 Rules)

Department of Agriculture

1. New Poultry Slaughter Inspection, 0583-AD32
2. 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
3. Eligibility and Certification Provisions of the Farm Security and Rural Investment Act of 2002, 0584-AD30
4. Special Areas; State-Specific Inventoried Roadless Area Management: Colorado, 0596-AC74

Department of Defense

5. TRICARE: Relationship between the TRICARE Program and Employer-Sponsored Group Health Coverage, 0720-AB17
6. CHAMPUS/TRICARE: Inclusion of TRICARE Retail Pharmacy Program in Federal Procurement of Pharmaceuticals, 0720-AB22

Department of Education

7. Title IV and Title II of the Higher Education Act of 1965, as Amended, 1840-AC95

Department of Energy

8. Energy Efficiency Standards for Fluorescent and Incandescent Reflector Lamps, 1904-AA92
9. Energy Efficiency Standards for Commercial Refrigeration Equipment, 1904-AB59

Department of Health and Human Services

10. Prevention of *Salmonella Enteritidis* in Shell Eggs, 0910-AC14
11. Control of Communicable Diseases Foreign Quarantine, 0920-AA12
12. Changes to the Hospital Inpatient Prospective Payment System for FY 2010 (CMS-1406-P), 0938-AP39
13. Revisions to Payment Policies under the Physician Fee Schedule for CY 2010 (CMS-1413-P), 0938-AP40
14. Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2010 (CMS-1414-P), 0938-AP41

Department of Homeland Security

15. 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
16. Importer Security Filing and Additional Carrier Requirements, 1651-AA70
17. Changes to the Visa Waiver Program to Implement the Electronic System for Travel Authorization (ESTA) Program, 1651-AA72
18. Large Aircraft Security Program, Other Aircraft Operator Security Programs, and Airport Operator Security Program, 1652-AA53
19. Secure Flight Program, 1652-AA45
20. Air Cargo Screening, 1652-AA64
21. Special Community Disaster Loans Program, 1660-AA44
22. Update of FEMA’s Public Assistance Regulations, 1660-AA51

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23. Refinement of Income and Rent Determinations in Public and Assisted Housing Programs (FR-4998), 2501-AD16
24. Real Estate Settlement Procedures Act (RESPA): Simplification and Improvement of the Process of Obtaining Home Mortgages and Reducing Consumer Costs (FR-5180), 2502-AI61

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25. Oil Shale Leasing and Operations, 1004-AD90

Department of Justice

26. Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities, 1190-AA44
27. Nondiscrimination on the Basis of Disability in State and Local Government Services, 1190-AA46

Department of Labor

28. Fiduciary Requirements for Disclosure in Participant-Directed Individual Account Plans, 1210-AB07
29. Prohibited Transaction Exemption for Provision of Investment Advice to Participants in Individual Account Plans, 1210-AB13
30. Occupational Exposure to Crystalline Silica, 1218-AB70
31. Cranes and Derricks, 1218-AC01

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32. Automatic Dependent Surveillance—Broadcast (ADS-B) Equipage Mandate to Support Air Traffic Control Service, 2120-AI92
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34. Pipeline Safety: Distribution Integrity Management, 2137-AE15

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36. Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category, 2040-AE91
37. Review of the Primary National Ambient Air Quality Standard for Nitrogen Dioxide, 2060-AO19
38. Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur, 2060-AO72
39. Renewable Fuels Standard Program, 2060-AO81

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40. Flammability Standard for Upholstered Furniture, 3041-AB35

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41. Accounting Practices and Principles, 3211-AA04

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45. Conservation Reserve Program, 0560-AH80
46. Direct and Counter-Cyclical Program (DCP), 0560-AH84
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48. Marketing Assistance Loans and Loan Deficiency Payments, 0560-AH87

49. Supplemental Revenue Assistance Payments Program (SURE), 0560-AH90
50. Livestock Forage Disaster Program (LFP), 0560-AH94
51. Conservation Stewardship Program, 0578-AA43
52. Environmental Quality Incentives Program, 0578-AA45
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58. Right Whale Ship Strike Reduction, 0648-AS36
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64. Advanced Technology Vehicles Manufacturing Incentive Program, 1901-AB25
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66. Energy Conservation Standards for Small Electric Motors, 1904-AB70
67. Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners, 1904-AA89
68. Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps, 1904-AB47

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70. Energy Efficiency Standards for Battery Chargers and External Power Supplies, 1904-AB57
71. Energy Efficiency Standards for Residential Refrigerators and Freezers, 1904-AB79
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90. Premiums and Cost Sharing (CMS-2244-F), 0938-AO47
91. State Flexibility for Medicaid Benefit Packages (CMS-2232-F), 0938-AO48
92. Home and Community-Based Services (HCBS) State Plan Option (CMS-2249-F), 0938-AO53
93. Fiscal Year Disproportionate Share Hospital Allotments and Disproportionate Share Hospital Institutions for Mental Disease Limits (CMS-2274-N), 0938-AP09
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73. Electronic Submission of Data from Studies Evaluating Human Drugs and Biologics, 0910-AC52
74. Process Controls for Animal Feed Ingredients and Mixed Animal Feed, 0910-AG10
75. Pediatric Dosing for Cough, Cold, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Proposed Amendment of Final Monograph, 0910-AG12
76. Substances Prohibited from Use in Animal Food or Feed to Prevent the Transmission of Bovine Spongiform Encephalopathy, 0910-AF46
77. Use of Ozone-Depleting Substances; Removal of Essential Use Designations (Epinephrine), 0910-AF92
78. Current Good Manufacturing Practice in Manufacturing, Packing, Labeling, or Holding Operations for Dietary Supplements, 0910-AB88
79. Patient Safety and Quality Improvement Act of 2005 Rules, 0919-AA01
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81. Possession, Use, and Transfer of Select Agents and Toxins—Biennial Review, 0920-AA25
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83. Possession, Use, and Transfer of Select Agents and Toxins, 0920-AA29
84. Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2010 (CMS-1410-P), 0938-AP46
85. Home Health Prospective Payment System Refinements and Rate Update for CY 2010 (CMS-1560-P), 0938-AP55
86. Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2010 (CMS-1538-P), 0938-AP56
87. ESRD Bundled Payment System (CMS-1418-P), 0938-AP57
88. Updates to Electronic Transactions (Version 5010) (CMS-0009-F), 0938-AM50
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95. Electronic Claims Attachments Standards (CMS-0050-IFC), 0938-AK62
96. Targeted Case Management (CMS-2237-F), 0938-AO50
97. Rehabilitation Services: State Plan Option (CMS-2261-F), 0938-AO81
98. Medicaid Graduate Medical Education (CMS-2279-F), 0938-AO95
99. Medicare Supplemental Policies (CMS-4084-P), 0938-AP10
100. Revisions to Payment Policies under the Physician Fee Schedule for CY 2009 (CMS-1403-FC), 0938-AP18
101. Fire Safety Requirements for Long-Term Care Facilities: Automatic Sprinkler Systems (CMS-3191-F), 0938-AN79
102. Group Health Plans and Health Insurance Issues under the Newborns and Mothers Health Protection Act (CMS-4116-F), 0938-AO43
103. Inpatient Psychiatric Facility Prospective Payment System—Update for Rate Year Beginning July 1, 2008 (RY 2009) (CMS-1401-N), 0938-AO92
104. Prospective Payment System for Long-Term Care Hospitals RY 2009: Annual Payment Rate Updates (CMS-1393-F), 0938-AO94
105. Part B Monthly Actuarial Rates, Monthly Premium Rates, and Annual Deductible Beginning January 1, 2009 (CMS-8036-N), 0938-AP00
106. Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for CY 2009 (CMS-8034-N), 0938-AP03
107. Part A Premiums for CY 2009 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (CMS-8035-N), 0938-AP04
108. Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2009 (CMS-1534-F), 0938-AP11
109. Hospice Wage Index for FY 2009 (CMS-1548-F), 0938-AP14
110. Changes to the Hospital Inpatient Prospective Payment Systems and FY 2009 Rates (CMS-1390-N), 0938-AP15
111. Child Support Provisions of the Deficit Reduction Act, 0970-AC24

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- 112. Public Transportation Security Grants, 1601-AA31
- 113. Inspection of Towing Vessels (USCG-2006-24412), 1625-AB06
- 114. Coastwise Transportation of Passengers, 1651-AA76
- 115. Air Transit Program, 1651-AA50
- 116. Airport Access Controls and Background Checks, 1652-AA63
- 117. Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License, 1652-AA41
- 118. Assistance to Firefighters Grant Program, 1660-AA50

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- 119. HUD's Regulation of Fannie Mae and Freddie Mac: Housing Goals (FR-4960), 2501-AD12

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- 120. Alternative Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf, 1010-AD30
- 121. Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision, 1010-AD29
- 122. Migratory Bird Hunting; 2009 to 2010 Migratory Game Bird Hunting Regulations, 1018-AW31
- 123. Migratory Bird Hunting; 2008 to 2009 Migratory Game Bird Hunting Regulations, 1018-AV62
- 124. Abandoned Mine Land Program, 1029-AC56

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- 125. DOJ/DEA Final Rule Stage Electronic Prescriptions for Controlled Substances, 1117-AA61
- 126. DOJ/DEA Final Rule Stage Retail Sales of Scheduled Listed Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products, 1117-AB05

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- 127. Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996, 1210-AA54
- 128. Amendment of Standards Applicable to General Statutory Exemption for Services, 1210-AB08
- 129. Health Care Standards for Mothers and Newborns, 1210-AA63

- 130. Family and Medical Leave Act of 1993; Conform to the Supreme Court's Ragsdale Decision, 1215-AB35
- 131. Occupational Exposure to Beryllium, 1218-AB76
- 132. Electric Power Transmission and Distribution; Electrical Protective Equipment, 1218-AB67
- 133. Hearing Conservation Program for Construction Workers, 1218-AB89
- 134. Refuge Alternatives for Underground Coal Mines, 1219-AB58

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- 135. Schedule of Fees for Consular Services, Department of State, and Overseas Embassies and Consulates, 1400-AC41

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- 136. Credit Assistance for Surface Transportation Projects, 2105-AD70
- 137. Washington, DC, Metropolitan Area Special Flight Rules Area, 2120-AI17
- 138. Flight Crewmember Duty Limitations and Rest Requirements, 2120-AI93
- 139. Transport Airplane Fuel Tank Flammability Reduction, 2120-AI23
- 140. Congestion Management Rule for LaGuardia Airport, 2120-AI70
- 141. Congestion Management Rule for John F. Kennedy International Airport and Newark Liberty International Airport, 2120-AJ28
- 142. Electronic On-Board Recorders for Hours-of-Service Compliance, 2126-AA89
- 143. Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operations, 2126-AB06
- 144. Hours of Service of Drivers, 2126-AB14
- 145. Roof Crush Resistance, 2127-AG51
- 146. Passenger Car and Light Truck Corporate Average Fuel Economy 2011–2015, 2127-AK29
- 147. Amendments to Design Standards for Pressurized Railroad Tank Cars, 2130-AB69
- 148. Grant Program for Local Rail Line Relocation and Improvement Projects, 2130-AB74
- 149. Regulatory Relief for Electronically Controlled Pneumatic Brake System Implementation, 2130-AB84
- 150. Major Capital Investment Projects—New/Small Starts, 2132-AA81
- 151. Pipeline Safety: Standards for Increasing the Maximum Allowable Operating Pressure for Gas Transmission Pipelines, 2137-AE25

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- 152. Prohibition on Funding of Unlawful Internet Gambling, 1505-AB78
- 153. Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Standardized Risk-Based Capital Rules, 1550-AC19

Department of Veterans Affairs

- 154. Post-9/11 GI Bill, 2900-AN10
- 155. Enrollment—Provision of Hospital and Outpatient Care to Veterans—Subpriorities of Priority Categories 7 and 8 and Enrollment Level Decision, 2900-AL51

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- 156. Criteria and Standards for Cooling Water Intake Structures—Phase II Remand, 2040-AE95
- 157. National Primary Drinking Water Regulations: Radon, 2040-AA94
- 158. Revisions to the Spill Prevention, Control, and Countermeasure (SPCC) Rule, 2050-AG16
- 159. Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers, 2050-AE81
- 160. Definition of Solid Wastes Revisions, 2050-AG31
- 161. Review of the Primary National Ambient Air Quality Standard for Sulfur Dioxide, 2060-AO48
- 162. Combined Rulemaking for Industrial, Commercial, and Institutional Boilers, and Process Heaters at Major Sources of HAP and Industrial, Commercial, and Institutional Boilers at Area Sources, 2060-AM44
- 163. Implementing Periodic Monitoring in Federal and State Operating Permit Programs, 2060-AN00
- 164. Review of the National Ambient Air Quality Standards for Lead, 2060-AN83
- 165. Review of the National Ambient Air Quality Standards for Particulate Matter, 2060-AO47
- 166. Control of Emissions from Nonroad Spark-Ignition Engines and Equipment, 2060-AM34
- 167. Control of Emissions from New Locomotives and New Marine Diesel Engines Less than 30 Liters per Cylinder, 2060-AM06

Consumer Product Safety Commission

- 168. CPSC Long-Term Actions Proposed Standard to Address Open-Flame Ignition of Bedclothes, 3041-AC26

Federal Acquisition Regulation

- 169. FAR Case 2007-013, Employment Eligibility Verification, 9000-AK91

Federal Communications Commission

- 170. Processing Applications in the Direct Broadcast Satellite Service; Feasibility of Reduced Orbital Spacing for Provision of Direct Broadcast Satellite Service in the United States (IB Docket No. 06-160), 3060-AI86
- 171. Transfer of the 3650 through 3700 MHz Band from Federal Government Use (WT Docket No. 05-96; ET Docket No. 02-380), 3060-AH75
- 172. Broadband over Power Line Systems, 3060-AI24
- 173. Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to the Commission’s Rules, 3060-AH32
- 174. 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, 3060-AH81
- 175. Hearing Aid-Compatible Telephones (WT Docket Nos. 01-309 and 06-150), 3060-AI57
- 176. IP-Enabled Services, 3060-AI48

Federal Deposit Insurance Corporation

- 177. Risk-Based Capital Guidelines; Capital Adequacy Guidelines: Standardized Framework, 3064-AD29
- 178. Assessment Dividends, 3064-AD19

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- 179. Revision of Fee Schedules; Fee Recovery for FY 2008, 3150-AI28

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- 180. Amendments to the Administrative Law Judge, Appeals Council, and Decision Review Board Appeals Levels (3401F), 0960-AG52

Sources: Compiled from “The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, Vol. 73, No. 227, November 24, 2008, and from online edition at <http://www.gpoaccess.gov/ua/browse/1108.html>.

Note: The “Regulation Identifier Number” appears at the end of each entry below. Sequential numbers in the Regulatory Plan and Unified Agenda no longer apply. For additional information, see “How to Use the Unified Agenda,” http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/UA_HowTo.jsp.

Part F. Rules Affecting Small Business, 1996-2007

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

Federal Maritime Commission	0	0	0	5	4	7	6	7	10	7	5	3	2
Federal Reserve System	4	2	5	5	2	8	10	7	3	5	6	3	5
Federal Trade Commission	7	11	10	10	10	9	9	9	9	11	12	13	11
Federal Mediation and Conciliation Service	0	0	0	0	0	1	1	0	0	0	0	0	0
Interstate Commerce Commission	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	0	2	1	4	1
Nuclear Regulatory Commission	8	9	8	5	5	3	5	5	3	0	1	1	2
Resolution Trust Corporation	0	0	0	0	0	0	0	0	0	0	17	0	0
Securities and Exchange Commission	48	34	27	39	40	28	26	28	25	20	0	16	29
Commission on Civil Rights	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
CPBSD*	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
Office of Federal Housing Enterprise Oversight	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
Office of Personnel Management	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
Pension Benefit Guaranty Corporation	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
Farm Credit Administration	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
Federal Deposit Insurance Corporation	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
Surface Transportation Board	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	754	733	937	963	1,054	892	996	859	789	788	787	757	

*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, 2002-2008

	2008			2007			2006			2005			2004			2003			2002		
	State	Local	Total	State	Local	Total	State	Local	Total	State	Local	Total	State	Local	Total	State	Local	Total	State	Local	Total
Department of Agriculture	72	41	63	43	58	74	69	59	71	59	71	59	71	59	71	53	42	60	60	49	49
Department of Commerce	22	11	22	9	28	28	34	8	23	9	23	9	23	9	18	9	15	15	8	8	8
Department of Defense	1	0	0	0					1	1	2	2	2	2	2	2	2	2	2	2	2
Department of Education	0	0	0	0	1	1	16	15	9	8	9	8	9	8	9	9	9	8	8	9	9
Department of Health and Human Services	69	41	83	45	70	47	34	19	35	18	35	18	35	18	40	20	46	46	21	21	21
Department of Homeland Security	33	25	37	28	39	28	39	29	37	27	37	27	37	27	34	28	0	0	0	0	0
Department of Housing and Urban Development	2	4	1	4	3	7	6	10	9	13	14	13	14	13	14	23	13	13	17	17	17
Department of the Interior	41	11	37	9	37	11	44	17	37	16	42	20	47	20	42	20	47	22	22	22	22
Department of Justice	15	10	17	11	14	8	15	9	16	10	15	11	28	11	15	11	28	21	21	21	21
Department of Labor	17	9	20	7	13	8	16	10	18	12	23	14	25	14	23	14	25	16	16	16	16
Department of State	2	0	3	0	3	3	4	1	1	1	2	1	2	1	2	1	2	1	2	1	1
Department of Transportation	18	6	19	7	27	12	11	4	21	13	26	16	42	16	26	16	42	23	23	23	23
Department of the Treasury	24	20	28	25	15	13	12	17	17	13	22	15	17	12	22	15	17	12	12	12	12
Department of Veterans Affairs	1	0	1	0	1	2	2	1	3	2	5	2	4	2	5	2	4	1	1	1	1
Environmental Protection Agency	104	65	119	80	132	86	143	98	140	92	157	103	155	103	157	103	155	101	101	101	101
Architectural and Transportation Barriers Compliance Board	2	2	2	2	1	1	1	1	2	2	2	2	3	2	2	2	3	3	3	3	3
CPBSD*	1	1	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Advisory Council on Historic Preservation									1	0	1	0	1	0	1	0	1	0	1	0	0
Corporation for National and Community Service	5	5	6	6	7	7	9	9	5	5	4	4	8	4	4	8	8	8	8	8	8
Federal Emergency Management Agency									0	0	0	0	0	0	0	0	0	0	0	0	0
Equal Employment Opportunity Commission	2	3	3	4	3	4	3	4	1	1	2	2	2	2	2	2	2	2	2	2	2
General Services Administration	10	7	8	5	8	5	8	5	8	6	11	7	10	7	10	6	6	6	6	6	6
National Aeronautics and Space Agency				0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
National Archives and Records Administration	1	1	3	3	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Institute of Museum and Library Services	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
National Endowment for the Arts	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
National Endowment for the Humanities			0	0	1	1	1	1	1	0	1	1	1	1	1	1	1	1	1	1	1
Office of Management and Budget			0	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Social Security Administration	3		4	0	2	3	3	3	5	1	8	3	5	3	8	3	5	3	5	3	3
Federal Communications Commission	32	20	31	20	32	19	37	24	33	20	21	16	23	16	23	18	18	18	18	18	18
Federal Energy Regulatory Commission			0	0	1	1	0	0	1	0	2	1	2	1	2	2	2	2	2	2	2
Federal Reserve System			0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Federal Trade Commission	1	0	1	0	2	1	1	1	1	0	1	0	1	0	1	0	1	0	1	0	0
National Credit Union Administration	1	0	0	0	3	2	2	0	0	0	1	0	1	0	1	0	1	0	1	0	0
National Indian Gaming Commission			0	0					0	0	0	0	0	0	0	0	0	0	0	0	0
Nuclear Regulatory Commission	3	1	4	1	3	1	3	1	3	1	3	1	3	1	3	1	3	1	3	1	1
Securities and Exchange Commission	2	2	4	3	2	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	513	312	539	334	543	346	523	346	507	338	527	359	539	359	527	359	539	539	363	363	363

*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>.

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