

20th Anniversary Edition

2013

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

In February 2013, the Congressional Budget Office (CBO) reported outlays for fiscal year (FY) 2012 that weighed in at \$3.538 trillion and projected spending for FY 2013 at \$3.553 trillion.¹ President Barack Obama's federal budget proposal for FY 2014 seeks \$3.778 trillion in discretionary, entitlement, and interest spending.² In the previous fiscal year, the president had proposed outlays of \$3.803 trillion.³ For the entire Obama administration, no formal budget has passed both houses of Congress and has been signed by the president. The best that might be said is that we have so far avoided entering an era of regular \$4 trillion in annual spending.

Trillion-dollar deficits were once unimaginable; such sums signified the level of budgets themselves, not of shortfalls. President Obama's 2014 budget projects smaller deficits, with 2013's claimed \$901 billion to fall to \$575 billion in 2018, but to rise thereafter.⁴ At no point is spending projected to balance in the coming decade. To be sure, many other countries' government outlays make up a greater share of their national output, com-

pared with 40 percent for the U.S. government.⁵ However, in absolute terms, the U.S. government is the largest government on the planet—whether one's metric is revenues, expenditures, deficits, or accumulated debt. Only seven other nations top \$1 trillion in annual government revenues, and none but the United States collects over \$2 trillion.⁶

Regulation: The Hidden Tax

The scope of federal government spending and deficits is sobering. Yet the government's reach extends well beyond Washington's taxes, deficits, and borrowing. Federal environmental, safety and health, and economic regulations cost hundreds of billions, perhaps trillions, of dollars annually over and above the official federal outlays that dominate policy debate.

Firms generally pass the costs of some taxes along to consumers.⁷ Likewise, some regulatory compliance costs that businesses face will find their way into the prices consumers pay and into wages earned. Precise regula-

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tory costs can never be fully known because, unlike taxes, they are unbudgeted and often indirect—even unmeasurable as such.⁸ But scattered government and private data exist on scores of regulations and on the agencies that issue them, as well as estimates of regulatory costs and benefits. Compiling some of that information can make the regulatory state somewhat more comprehensible. That is one purpose of the annual *Ten Thousand Commandments* report, highlights of which follow.

- This publication marks the 20th anniversary of the first edition of *Ten Thousand Commandments*.⁹ The annual outflow of over 3,500 final rules—sometimes far above that level—has meant that 81,883 rules have been issued since 1993.
- The Anti-Democracy Index, the ratio of regulations issued by agencies relative to laws passed by Congress and signed by the president, stood at 29 for 2012. Specifically, 127 laws were passed in calendar year 2012, whereas 3,708 rules were issued. This disparity highlights a substantial delegation of lawmaking power to unelected agency officials.
- This author’s working paper compilation “Tip of the Costberg,” largely based on federal government data, estimates regulatory costs at \$1.806 trillion annually.¹⁰
- U.S. households “pay” \$14,768 annually in regulatory hidden tax, “absorbing” 23 percent of the average income of \$63,685, and 30 percent of the expenditure budget of \$49,705.
- The most recent Small Business Administration (SBA) evaluation of the overall U.S. federal regulatory enterprise estimated annual regulatory compliance costs of \$1.752 trillion in 2008. Earlier SBA reports pegged costs at \$1.1 trillion in 2005 and at \$843 billion in 2001. The Office of Management and Budget (OMB) agreed with those figures at the time. Meanwhile, a subset of 106 selected major rules reviewed during 2001–2011 by the OMB notes acumulative annual costs of between \$43 billion and \$67 billion.
- For the first time in history, the estimated cost of regulation exceeds half the level of the federal budget itself. Regulatory costs of \$1.806 trillion amount to 11.6 percent of the U.S. gross domestic product (GDP), estimated at \$15.549 trillion in 2012.
- Combining regulatory costs with federal FY 2012 outlays of \$3.538 trillion indicates that the federal government’s share of the entire economy now reaches 34.4 percent.
- Regulatory compliance costs exceed 2011 estimated corporate income taxes of \$237 billion and individual income taxes of \$1.165 trillion.
- The Weidenbaum Center at Washington University in St. Louis and the Regulatory Studies Center at George Washington University in Washington, D.C., jointly estimate that agencies spent \$61 billion (on budget) to administer and police the regulatory enterprise. Adding the \$1.806 trillion in off-budget compliance costs brings the total regulatory enterprise to \$1.867 trillion.
- The 2012 *Federal Register* stands at 78,961 pages. Although shy of 2010’s all-time record-high 81,405 pages and 2011’s 81,247 pages, it is the fourth highest. Three of the four all-time high counts have occurred during the Obama administration.
- *Federal Register* pages devoted specifically to final rules stand at 24,690.
- The 2,898 proposed rules of 2011 represented the highest count of the decade, and the 2,517 in 2012 the highest count since 2003.
- According to the 2012 “Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions,” which lists federal regulatory actions at various stages of implementation, 63 federal departments, agencies, and commissions have 4,062 regulations at various stages of implementation.
 - The “Completed” component of these 4,062 rules rose by 16 percent, from 1,010 to 1,172 (after rising 40 percent the year before, from 722 to 1,010).

- The “Active” component—prerule and proposed and final rules—after having stood well above 2,600 annually for the current administration, dropped from 2,676 to 2,387.
- Of the 4,062 regulations in the pipeline, 224 are “economically significant” rules, which the federal government defines as wielding at least \$100 million in economic impact. This level is 24 percent higher than the 180 in George W. Bush’s final year as president, and vastly above earlier post-2000 levels.
- Of the 4,062 regulations now in the works, 854 affect small businesses. Of those, 470 required a regulatory flexibility analysis and 384 were otherwise noted by agencies to affect small business.
- The five most active rule-producing agencies—the Departments of the Treasury, Commerce, the Interior, Agriculture, and Transportation—account for 1,730 rules, or 43 percent of all rules in the Unified Agenda pipeline.
- The Environmental Protection Agency (EPA), formerly consistently in the top five, is now sixth, but adding its 223 rules brings the total from the top six rulemaking agencies to 1,953 rules, or 48 percent of all federal rules.
- Finalized EPA regulations were up by 44 percent in Obama’s first term.

The short-lived series of budget surpluses from 1998 to 2001—the first since 1969—seems like ancient history—even inconceivable—in today’s debt- and deficit-drenched policy setting. Indeed, the Congressional Budget Office projects annual deficits of hundreds of billions of dollars over the coming decade. When it comes to stimulating a limping economy, both reducing deficits and ensuring that regulations are bearable matter for economic health, because budgetary pressures can invite lawmakers to opt for off-budget private-sector regulations rather than add to unpopular deficit spending. A new government program—for example, job training—would require either increasing government spending or imposing new rules and regulations that require such training.

Thus, unlike on-budget spending, regulatory costs remain largely hidden from public view, which makes regulation increasingly attractive to lawmakers. Better regulatory oversight and monitoring can *liberate to stimulate*. Thus, a *deregulatory stimulus* is much needed.

The Disclosure and Accountability Imperatives

Cost-benefit analysis at the agency level is already neglected, so at minimum, some third-party review is needed. Like federal spending, each agency’s stream of regulations and their costs should be tracked and disclosed annually. Then, periodic housecleaning should be performed (regulations with cost estimates have made up less than 0.5 percent of the annual rule flow of more than 3,500 over the past decade).¹¹ A problem with cost-benefit analysis is that it largely relies on agency self-policing. Agencies auditing their own rules is tantamount to a student grading his or her own papers. Regulators are disinclined to emphasize when a rule’s benefits do not justify the costs involved. In fact, one could expect new and dubious categories of benefits to emerge to justify needless or cynical rulemaking.¹²

Another reform alternative is to go to the source of the matter—systematic overdelegation of rulemaking power to agencies. Requiring expedited votes on economically significant or controversial agency rules before they become binding on the population would reestablish congressional accountability and help affirm a principle of “no regulation without representation.”

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” to boost transparency, similar to the presentation in *Ten Thousand Commandments*,¹³ could be officially issued each year to distill information for the public and policy makers about the scope of the regulatory state.

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Overview:

Toward a Rational Regulatory Budget

Congress's spending accountability, though imperfect, is a necessary condition for government's accountability to voters. The federal government funds programs either by raising taxes or by borrowing, with a promise to repay with interest, from future tax collections. However controversial government spending programs may be to some, taxpayers can examine costs in the federal budget's historical tables¹⁴ and Congressional Budget Office publications.¹⁵

However, the government can also “fund” objectives and programs by requiring the private sector to foot the bill via regulatory compliance, thereby advancing federal government initiatives or goals without using tax dollars. Rather than pay directly and book expenses for new initiatives, federal regulations can obligate the private sector, as well as state and local governments, to pay for federal initiatives through compliance costs.

Regulatory costs are not budgeted and lack the formal public disclosure that accompanies federal spending. Therefore, regulatory initiatives can enable federal direction of private-sector resources with comparatively little public fuss—thus rendering regulation a form of off-budget taxation. Policy makers can be reckless about imposing regulatory costs relative to undertaking more publicly visible government spending, because disclosure of, and accountability for, regulatory costs are usually absent and always spotty. Where regulatory compliance costs prove burdensome, Congress can escape accountability by blaming an agency for issuing an unpopular rule.

Table 1 provides some perspective on the regulatory “tax” by presenting summary data for selected topics described in *Ten Thousand Commandments*. Trends over the past few years are provided where information is available.

Ten Thousand Commandments for 2013 contains four primary sections:

1. An overview of the costs and scope of the regulatory state, such as its estimated size compared with federal budgetary components and the gross national product.
2. An analysis of trends in the numbers of regulations issued by agencies based on information provided in the *Federal Register* and in “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions.”
3. Recommendations for reform that emphasize improving congressional accountability for rulemaking. This section offers steps to improve regulatory disclosures via a regulatory transparency report card and to increase congressional responsibility to voters for costly or controversial rules. These and other regulatory budgeting steps contrast favorably with the shortcomings of agency-driven cost-benefit analysis.
4. An appendix containing historical tables of regulatory trends over the past decades.

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Table I. The Regulatory State: A 2013 Overview

	Year-End 2012	1-Year Change	5-Year Change (2008–2012)	10-Year Change (2003–2012)
Total regulatory costs	\$1.806 trillion	n/a	n/a	n/a
Agency enforcement budgets	\$60.6 billion	8.63%	18.5%	19.2%
<i>Federal Register</i> pages	78,961	–2.8%	–0.6%	10.8%
Devoted to final rules	24,690	–6.0%	–6.2%	8.9%
<i>Federal Register</i> final rules	3,708	–2.6%	–3.2%	–10.6%
Code of Federal Regulations pages	174,545	3.1%	10.5%	21.1%
Total rules in <i>Agenda</i> pipeline	4,062	–1.6%	1.4%	–6.2%
Completed	1,172	16.0%	69.6%	35.8%
Active	2,387	–10.8%	–3.1%	–12.3%
Long-term	503	13.8%	40.8%	–32.6%
“Economically significant” rules in the year-end pipeline	224	5.7%	24.4%	76.4%
Completed	57	26.7%	72.7%	147.8%
Active	136	–1.4%	23.6%	91.5%
Long-term	31	6.9%	–16.2%	–6.1%
Rules affecting small business	854	3.9%	13.4%	–0.6%
Regulatory flexibility required	470	12.4%	18.4%	27.0%
Regulatory flexibility no required	384	–5.0%	7.9%	–21.5%
Rules affecting state governments	444	–15.2%	–14.1%	–25.3%
Rules affecting local governments	268	–13.1%	–13.5%	–15.7%
GAO Congressional Review Act reports on major rules (year-end 2010)	67	–16.2%	–28.7%	34.0%
EPA Breakdown				
Final rules (<i>Federal Register</i>)	635	19.1%	25.2%	11.0%
EPA rules in <i>Agenda</i>	223	–29.9%	–32.4%	–46.5%
EPA rules affecting small business	49	–32.9%	–41.0%	–63.7%
FCC Breakdown				
Final rules (<i>Federal Register</i>)	109	–16.2%	–32.7%	–61.9%
FCC rules in <i>Agenda</i>	118	14.6%	–17.5%	–11.9%
FCC rules affecting small business	89	14.1%	–16.0%	–14.4%

Note: n/a = not applicable.

The Dollar Cost of the Regulatory State

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

The Office of Management and Budget's 2012 *Draft Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates*, which surveys regulatory costs and benefits, pegs the cumulative costs of 106 selected major regulations during 2001-2011 at between \$43 billion and \$67 billion (compared with 105 rules at between \$44 billion and \$62 billion in the 2011 report). Meanwhile, the estimated range for benefits spanned \$141 billion to \$701 billion.¹⁶ The OMB's cost-benefit breakdown incorporates only benefits and costs which the OMB or agencies have expressed in quantitative and monetary terms. It omits numerous categories and cost levels of rules altogether, and rules from independent agencies are entirely absent.

The latest official comprehensive cost assessment of the entire federal regulatory enterprise was prepared in September 2010 for the Small Business Administration,¹⁷ which traditionally has assessed regulatory costs by the following broad categories (modeling techniques have changed over time):

- Economic regulatory costs (for example, price-and-entry restrictions and transfer costs such as price supports that shift money from one pocket to another);
- Workplace regulatory costs;
- Environmental regulatory costs; and
- Paperwork costs (for example, tax compliance).

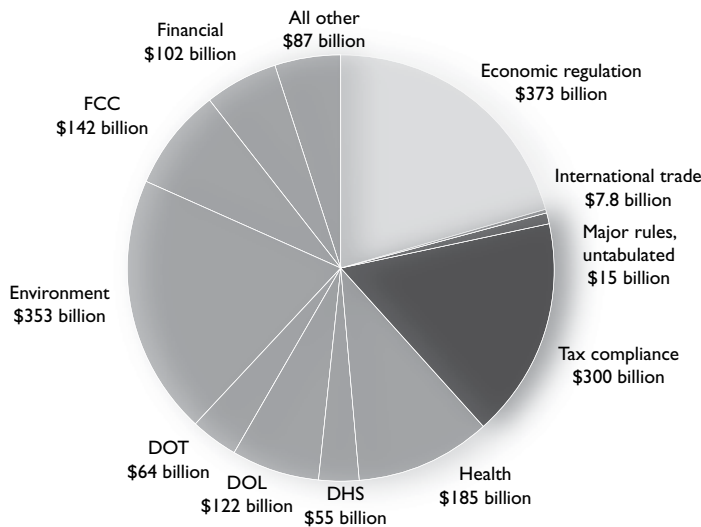
The 2010 edition of the SBA report, prepared by economists Nicole V. Crain and W. Mark Crain, estimates regulatory compliance costs at \$1.752 trillion for 2008.¹⁸ The Crain and Crain report's primary pur-

pose is to note the extent to which regulatory costs impose higher burdens on small firms, for which per-employee regulatory costs are higher. In their model, overall regulatory costs amounted to \$8,086 per employee.¹⁹ The impacts by firm size are disparate. As Table 2 shows, for 2008, per-employee regulatory costs for firms of fewer than 20 workers can be more than 36 percent greater than for larger firms—\$10,585 for smaller firms versus \$7,755 for larger ones.²⁰ Meanwhile, the aftermath of recent major financial, health, and environmental policies point to substantial regulatory costs likely not captured by the SBA report.²¹

More recently, this author compiled an assortment of estimates on the compliance and economic cost burden of the federal regulatory enterprise, using the OMB annual reports on costs and benefits, Government Accountability Office (GAO) and other federal data, and third-party estimates. The result is the fall 2012 working paper, "Tip of the Costberg: On the Invalidity of All Cost of Regulation Estimates and the Need to Compile Them Anyway," which assembles costs across the board. A plausible estimate for the cost of federal regulation is \$1.8 trillion annually.²² Figure 1 breaks down the "Costberg" regulatory cost estimate by categories.

Recent regulatory interventions—including the various stimulus and bailout programs and regulatory costs associated with the recent health care and financial reform legislation—can be assumed to have future impacts. Indirect costs, such as the effects of lost innovation or productivity, are notoriously difficult to

Figure 1. Annual Cost of Federal Regulation 2012, \$1.806 Trillion



Source: Wayne Crews, "Tip of the Costberg: On the Invalidity of All Cost of Regulation Estimates and the Need to Compile Them Anyway," Working Paper, Fall 2012 Edition. www.tenthousandcommandments.com.

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

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

Source: Nicole V. Crain and W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract No. SBAHQ-08-M-0466, September 2010, <http://www.sba.gov/advo/research/rs371tot.pdf>. Costs presented in 2009 dollars.

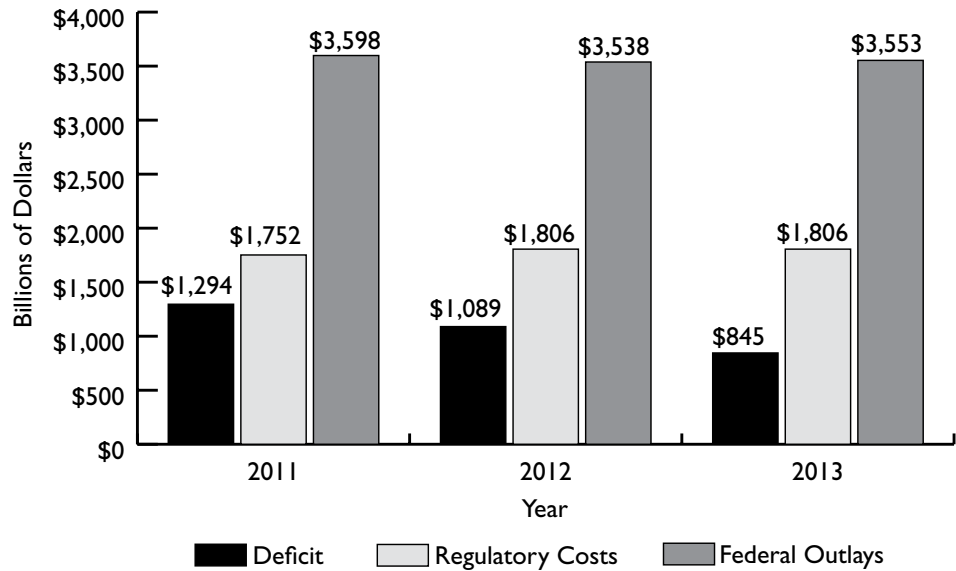
determine and can lead to underestimates of the total regulatory burden.²³

Regulatory Compliance Costs: Catching Up to Government Spending?

Regulations constitute off-budget spending—the costs of federal requirements that the popu-

lation is compelled to bear. 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.)²⁴ Those days are history. In FY 2012, a deficit of \$1.089 trillion was posted on \$3.538 trillion in outlays, with no balance—let alone surplus—projected over the coming decade. In fact, the smallest deficit projected is an optimistic \$430 billion in 2015, after which it heads upward again.²⁵

Figure 2. Off-Budget Estimated Regulatory Compliance Costs Compared with Federal Spending, 2011, 2012, and Projected 2013



Sources: The 2011 deficit and outlays from Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2012 to 2022* (Washington, DC: CBO, January 2012), Table 1-1, “Deficits or Surpluses Projected in CBO’s Baseline,” p. 2, http://www.cbo.gov/ftpdocs/126xx/doc12699/01-31-2012_Outlook.pdf. 2012 actual and 2013 projected deficit and outlays from Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2013 to 2023* (Washington, DC: CBO, February 2013), Table 1-1, “CBO’s Baseline Budget Projections,” p. 9, http://www.cbo.gov/sites/default/files/cbofiles/attachments/43907_Outlook_2012-2-5.pdf. Estimated 2012 and 2013 regulatory cost placeholder from Wayne Crews, “Tip of the Costberg.” Estimated 2011 regulatory costs from Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms.” Note: Federal deficit and outlay numbers are by fiscal year; regulatory costs are by calendar year.

In FY 2010, a deficit of \$1.294 trillion was posted on \$3.456 trillion in outlays. In FY 2009, the figures were \$1.414 trillion and \$3.518 trillion, respectively. The last time the deficit was below \$1 trillion was during FY 2008 when it was \$459 billion and outlays were \$2.98 trillion.²⁶

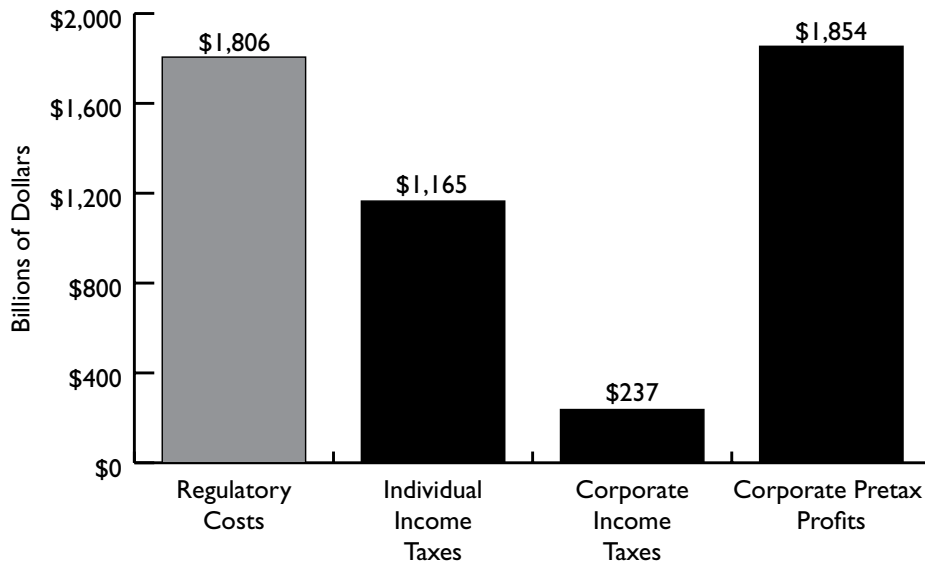
Figure 2 compares deficits and outlays during 2011-2012 with the 2012 “Costberg” regulatory cost estimate of \$1.806 trillion, along with 2013 projections. Note that estimated regulatory compliance costs exceed half the level of fiscal budget outlays, the first time in history we have witnessed this development. Before 2009, the costs of regulation had been more than double the federal deficit but had hovered around a third of the level of federal spending. Now, in the wake

of the economic downturn and escalated federal spending, the deficit has expanded to rival the costs of regulation.

Federal spending surge: Herald of new regulation

Contemplating off-budget regulatory compliance costs equivalent to half of all federal outlays is sobering enough, but the situation is more precarious now given that Washington’s high-spending culture has led to unprecedented deficits. The noted \$1.296 trillion deficit for FY 2011 (see Figure 2) is larger than all federal budget outlays as recently as 1990.²⁷ As we hover at \$3.5 trillion in annual spending and a projected \$4 trillion by 2016, the days of

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



Sources: Wayne Crews, "Tip of the Costberg." Estimated 2012 tax figures from Office of Management and Budget, Budget of the United States Government, Historical Tables, Table 2.1, "Receipts by Source: 1934–2017," <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/hist02z1.xls>. 2011 pretax profits (domestic and international) from Bureau of Economic Analysis, National Income and Product Accounts Tables, Table 6.17D, "Corporate Profits before Tax by Industry," <http://www.bea.gov/iTable/iTable.cfm?ReqID=9&step=1#reqid=9&step=3&isuri=1&903=243>.

a \$2 trillion federal budget that used to be regarded as high seem to have passed in the blink of an eye.

Higher spending can translate into even higher future regulatory costs. Spending related to bailouts and such stimulus as infrastructure and the like will include significant regulatory components as well—for example, salary cap proposals with respect to bank bailouts, and so-called net neutrality proposals with respect to telecommunications infrastructure spending.

Deficit spending plus regulation: An ominous combination

Both trillion-dollar deficits and regulatory costs exceeding \$1.5 trillion dwarf the initial \$150 billion "stimulus package" of early 2008, which comprised the tax rebates that were naively thought capable of resurrecting the economy at that time. Because far

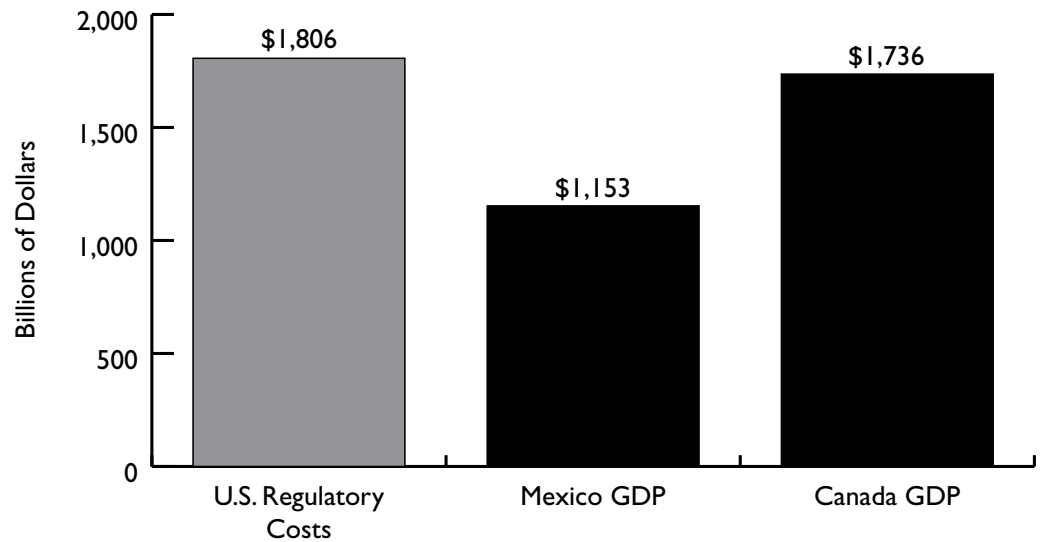
larger stimulus packages have not increased employment, economic liberalization and a reduced regulatory state are an obvious option. Policy makers would do well to contemplate how the spending and deficit culture leads to growth in off-budget regulation.

Regulatory Costs versus Income Taxes and Corporate Profits

Regulatory costs now easily exceed the cost of individual income taxes and vastly exceed revenue from corporate taxes. As Figure 3 shows, regulatory costs now tower over the estimated 2012 individual income taxes of \$1.165 trillion (individual income tax receipts had fallen substantially during the economic downturn and are rising again at the moment).²⁸ Corporate income taxes, estimated at \$237 billion in 2012, are dwarfed by regulatory costs (corporate taxes had declined by half during the recent downturn).²⁹

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Figure 4. U.S. Regulatory Costs Compared with Mexico's and Canada's Gross Domestic Product, 2011



Sources: Wayne Crews, "Tip of the Costberg." Gross domestic product data from World Bank, <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD/countries>.

As the last bar of Figure 3 shows, regulatory compliance costs nearly exceed the level of pretax corporate profits, which were \$1.854 trillion in 2011.³⁰

Regulatory Costs versus GDP

For a global perspective, U.S. regulatory costs of \$1.8 trillion exceed the output of many major national economies. Figure 4 shows that U.S. regulatory costs surpass the entire 2011 gross domestic product of Mexico and Canada, which stood at \$1.153 trillion and \$1.736 trillion, respectively.³¹ For the United States, the Congressional Budget Office noted 2012 GDP of \$15.549 trillion.³² The total regulatory cost estimate of \$1.806 trillion is equivalent to 11.6 percent of that amount. Combining regulatory costs with federal FY 2012 outlays of \$3.538 trillion indicates that the federal government's share of GDP now reaches 34.4 percent.

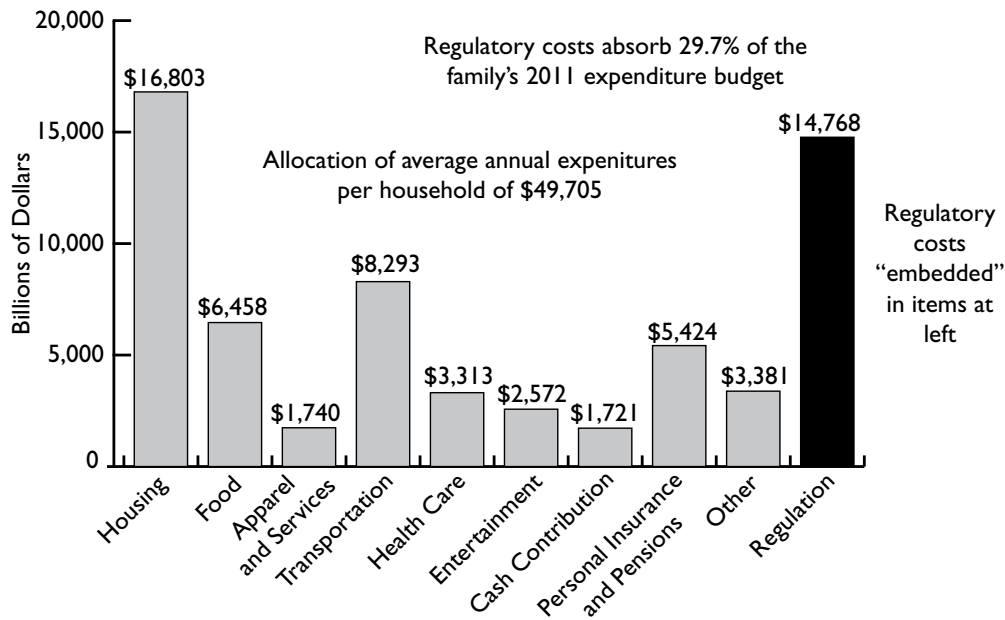
Regulation: A Hidden Tax on the Family Budget

Firms pass along to consumers some of the costs of the taxes they are required to pay. Similarly, businesses pass many regulatory costs on to consumers. How much of the American family or household budget is absorbed by regulatory costs is hard to say, but we can look at the share of each household's regulatory costs and compare it with total annual expenditures as compiled by the Bureau of Labor Statistics (BLS).³³ While not scientific, it is nonetheless a useful back-of-the-envelope way of reflecting on the magnitude of regulatory costs.

For America's 122,287,000 households, or "consumer units" in BLS parlance, the average 2011 income was \$63,685. For the BLS, "Consumer units include families, single persons living alone or sharing a household with others but who are financially independent, or two or more persons living together

The federal government's share of GDP now reaches 34.4 percent.

Figure 5. Household Budget Contains \$14,768 in Regulatory “Hidden Tax”



Source: Bureau of Labor Statistics, author's calculations. Note: Proxy for “households” here is BLS depiction of 122,287,000 “consumer units” that “include families, single persons living alone or sharing a household with others but who are financially independent, or two or more persons living together who share expenses.”

who share expenses.” For each “unit,” average annual expenditures were \$49,705 according to the BLS.³⁴ Figure 5 breaks down these expenditures by category. The highest category is housing at \$16,803 annually; the second-highest is transportation at \$8,293.

If one were to allocate annual regulatory costs assuming full pass-through of costs to consumers, each U.S. household “pays” \$14,768 annually in a hidden regulatory tax, or 23.2 percent of average income. That figure is higher than every annual household budgetary expenditure item except housing. More is “spent” on embedded regulation than on health care, food, transportation, entertainment, apparel and services, and savings. Embedded regulatory costs can be said to have absorbed up to 29.7 percent of the typical household’s expenditure budget.

of Policing the Regulatory State

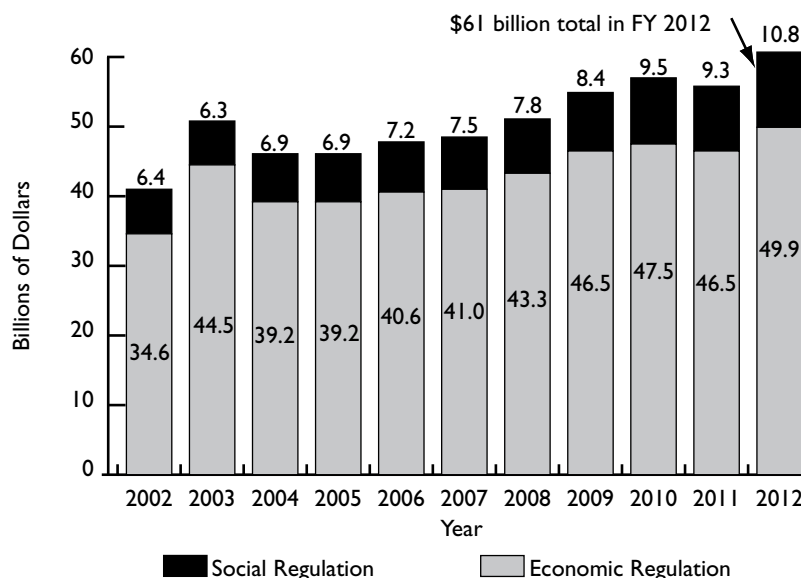
Regulatory cost estimates encompass compliance costs paid by the public, but those estimates do not include administrative costs—the on-budget amounts spent by federal agencies to produce rules and to police compliance. The Weidenbaum Center at Washington University in St. Louis and the Regulatory Studies Center at George Washington University in Washington, D.C., regularly examine the federal budget to excerpt and compile the administrative costs of developing and enforcing regulations. The amounts are disclosed in the federal budget, because those are funds that taxpayers pay to support agencies’ administrative budgets, rather than compliance costs paid by regulated parties.

The FY 2012 enforcement costs incurred by federal departments and agencies stood at an

Each U.S. household “pays” \$14,768 annually in a hidden regulatory tax, or 23.2 percent of average income.

The Federal Government’s Costs

Figure 6. Agency Enforcement Budgets, 2002–2012



Source: Susan Dudley and Melinda Warren, “Growth in Regulators’ Budget Slowed by Fiscal Stalemate: An Analysis of the U.S. Budget for Fiscal Years 2012 and 2013,” *Regulators’ Budget* 34, published jointly by the Regulatory Studies Center at George Washington University and the Weidenbaum Center on the Economy, Government, and Public Policy, July 2012, p. 25. <http://wc.wustl.edu/files/wc/imce/2013regreport.pdf>. Note: Original 2005 constant dollars are adjusted here by the change in the consumer price index between 2005 and 2010, derived from Consumer Price Index, U.S. Department of Labor, Bureau of Labor Statistics, January 16, 2013 (all urban consumers [CPI-U], U.S. city average, all items), <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt>.

estimated \$61 billion (in constant 2012 dollars, adjusted from original 2005 dollars), an 3.6 percent increase over \$59 billion the previous year (Figure 6).³⁵

Of that amount, \$10.8 billion was spent administering economic regulations. The larger amount spent for writing and enforcing social and environmental regulations was \$49.9 billion. The Environmental Protection Agency alone spent \$5.6 billion in this latter category, accounting for 11.2 percent of the total expected to be spent by all regulatory agencies. The EPA used to account for the lion’s share of rules promulgated, but now the far newer Department of Homeland Security, at \$26.8 billion, accounts for over half.

That \$61 billion in agency costs helps complete the picture of the federal regulatory

apparatus. Adding the \$61 billion in administrative costs tabulated by the Weidenbaum Center and the Regulatory Studies Center to the \$1.8 trillion in the “Tip of the Costberg” estimate for compliance and economic costs brings the total estimated 2012 regulatory burden to about \$1.867 trillion.

Estimated full-time-equivalent employment staffing reached 283,615 in FY 2012, according to the Weidenbaum Center and Regulatory Studies Center report—nearly 100,000 more than a decade ago (185,205 in 2002). Much of the post-2002 surge apparent in their data may be largely attributable to the newly created Transportation Security Administration’s hiring of thousands of airport screening personnel. Over the past year, overall staffing is up by 2.5 percent.

Thousands of Pages and Rules in the *Federal Register*

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

There are other obvious problems with relying on page counts. The wordiness of rules will vary, thus affecting the number of pages and obscuring the real effects of the underlying rules. A short rule could be costly and a lengthy one relatively cheap. Furthermore, the *Federal Register* contains administrative notices, rules relating to the governance of federal programs and budgetary operation, corrections, presidential statements, and other material. Blank pages sometimes appear—in the old days, they numbered into the thousands owing to the Government Printing Office's imperfect prediction of the number of pages a given agency would require.

Federal Register Pages

Despite limitations, it remains worthwhile to track the *Federal Register's* growth according

to its page counts, provided the caveats listed are kept in mind. Tens of thousands of pages stream from America's departments, agencies, and commissions. As Figure 7 shows, at the end of 2012, the number of pages stood at 78,961. Both 2010 and 2011 had been all-time record years, at 81,405 and 81,247, respectively. Although not a record, the 2012 count of 78,961 is still high relative to the past decade viewed in total. The previous record high had been 79,435 pages in 2008, so of the four highest *Federal Register* counts of the decade, three were during the Obama administration. (The *Federal Register* would have been even longer in recent years had the Unified Agenda been published in it since 2007, when it went primarily digital.)³⁶

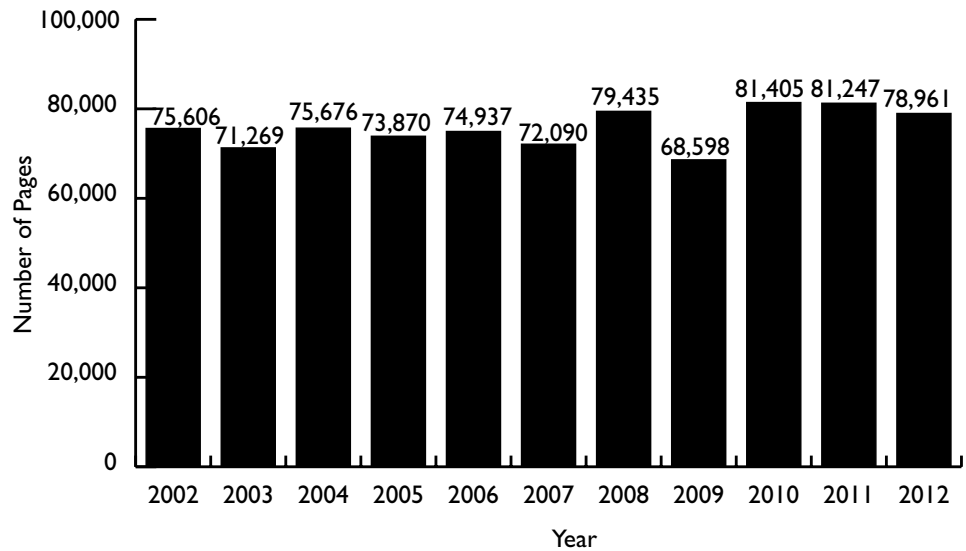
Referring again to Figure 7, the sixth-highest page count had been 75,606 in 2002 (the year the Microsoft settlement contributed to the total). After 2002, annual page counts remained above 70,000 until the 2009 dip. The 2012 total means that, overall, the decade from 2003 to 2012 has seen the annual page count increase by 10.8 percent. (For a history of *Federal Register* page totals since 1936, see Appendix: Historical Tables, Part A.)

The drop in pages in 2009 looks like an anomaly, for which there are at least three potential explanations:

- The 2009 drop is exaggerated relative to the normal page fluctuations since President Bush issued a flurry of “midnight regulations” at the end of his term in 2008,³⁷ the record year for *Federal Register* pages. Apart from midnight regulations, the 2009 level still marks a decline from the years before 2008.

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

Figure 7. Number of Federal Register Pages, 2002–2012



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

A rule of few pages might impose a significant burden.

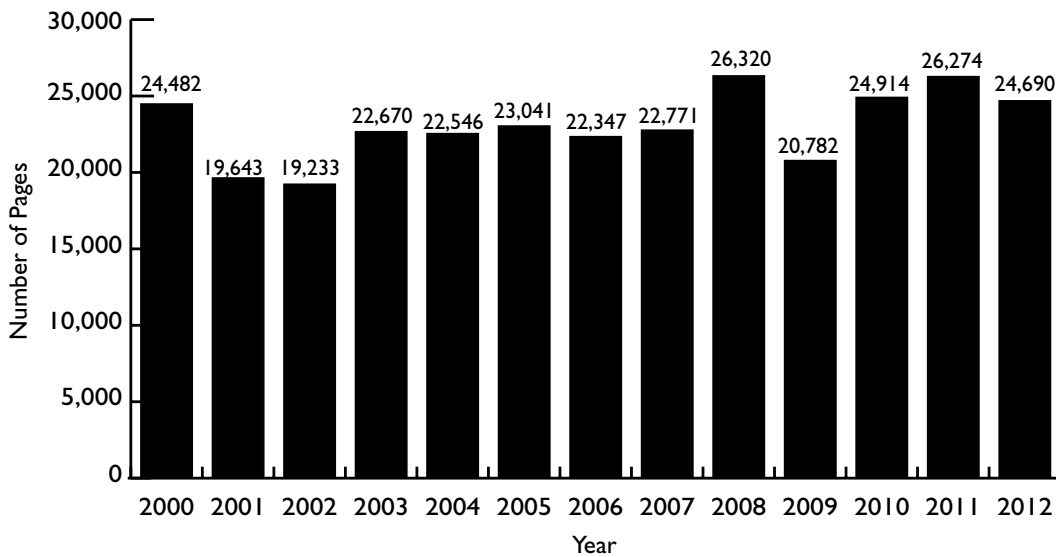
- President Obama’s appointment of Harvard law professor Cass Sunstein, who is relatively favorable toward cost-benefit analysis, as director of the Office of Information and Regulatory Affairs could have affected 2009 rulemaking late in the year, following his Senate confirmation. Cost-benefit analysis is controversial among groups that favor activist agency regulation rather than congressional accountability for legislation.³⁸
- The regulatory freeze announced by the incoming president’s chief of staff in January 2009,³⁹ which applied to Bush regulations still in the pipeline, may have had some measurable effect by slowing what otherwise might have landed in the books during 2009.⁴⁰ However, this effect, if it even existed, was transitory. By way of comparison, a freeze on regulations by President George H.W. Bush did slow regulations the year after its implementation, but rules resumed normal trends once the moratorium was lifted.⁴¹

Federal Register Pages Devoted to Final Rules

Gross page counts alone do not reveal whether actual regulatory burdens have increased or decreased; a rule of few pages might impose a significant burden. Isolating the pages devoted specifically to *final* rules might be more informative, by omitting pages devoted to proposed rules, agency notices, corrections, and presidential documents. Between 2011 and 2012, the number of pages devoted to final rules fell by 6 percent after having risen by 5.5 percent between 2010 and 2011—from 24,914 to a near-record-high 26,274 (Figure 8). The all-time record was 26,320 in 2008, after which the number dropped sharply by 21 percent to 20,782 in 2009. This decrease mirrored the above-noted drop in total pages between those two years.

Note that before 2008, the highest page count up to that time was 24,482 pages back in 2000, the last full year of the Clinton administration. Obama’s 2012 count is roughly

Figure 8. *Federal Register* Pages Devoted to Final Rules, 2000–2012



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

equal. Indeed, these levels are the highest since the *Federal Register* page-count breakdown by category was first reported starting in 1976.

The 2000 count was up by 21 percent over 1999 (possibly partly attributable to an effort by President Clinton to complete a backlog of rules before the arrival of the Bush administration). The drop right after Clinton's final year in office was noteworthy in that, in pages devoted to final rules, this 2000–2001 Clinton-to-Bush drop is similar to the 2008–2009 one we saw from Bush to Obama's first year.

Figure 8 shows that over the decade since 2003, the number of *Federal Register* pages devoted to final rules has increased by 8.9 percent. Indeed, except for 2001–2002, the number of final-rule pages has remained well above 22,000 annually.

Another way of looking at *Federal Register* trends is by pages per decade (see Figure 9). 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

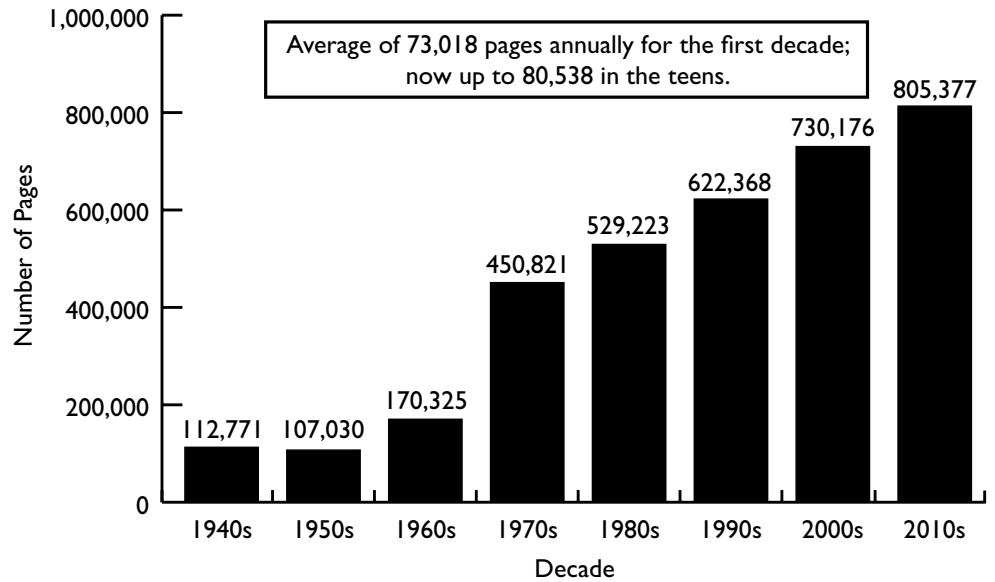
was the 1980 peak of 73,258 pages, as shown in Appendix: Historical Tables, Part A.) At the end of the first decade of the 21st century,⁴² 730,176 pages ultimately appeared—a 17 percent increase over the 1990s and an average of 73,018 pages annually. If page counts hold around the range of the 2010s, we can expect to see a considerable increase for the current decade. The last bar of Figure 9 projects the average of the past three years of 80,538.

It is worth noting that despite the limitations of *Federal Register* page counts, the higher overall number of pages compared with past decades—plus a stream of pages devoted to final rules averaging well over 20,000 annually—credibly signifies higher levels of final rule costs and burdens.

Number of Proposed and Final Rules in the *Federal Register*

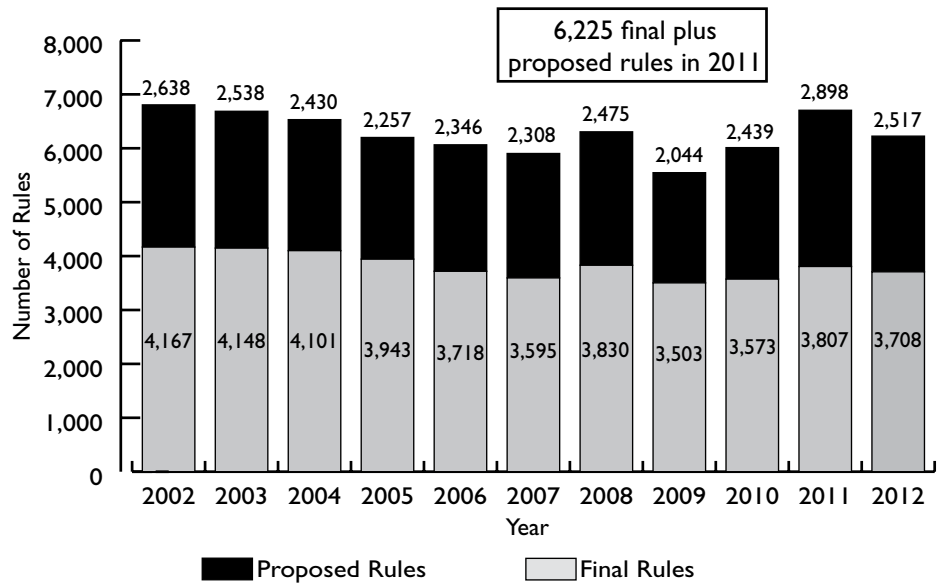
The actual numbers of proposed and final rules—not just the page count—published in the *Federal Register* merit attention. As Figure 10 shows, in 2012 rules finalized

Figure 9. New *Federal Register* Pages per Decade



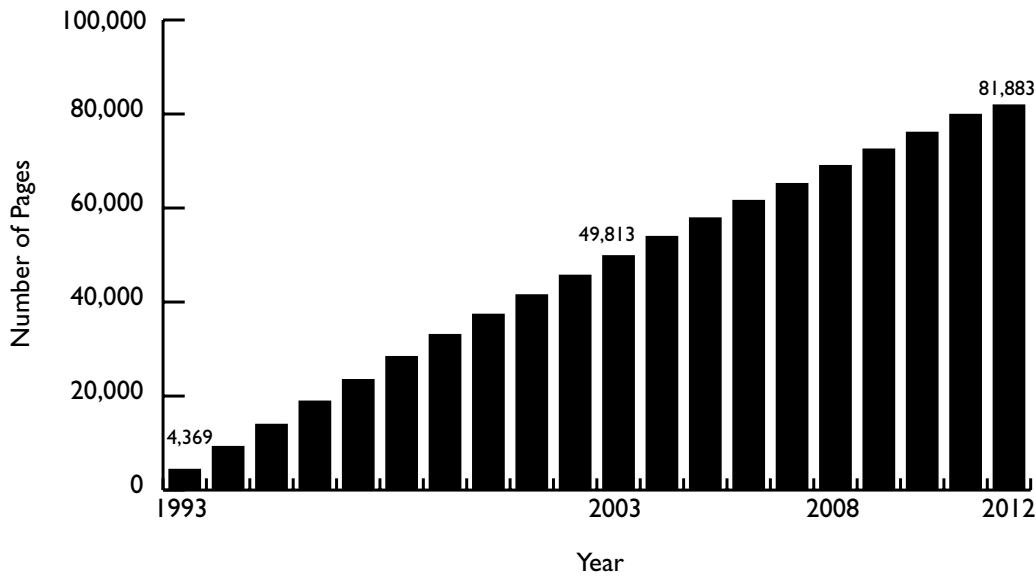
Source: National Archives and Records Administration, Office of the Federal Register. Note: Figure for the 2010s is a projection based on the last two years' average.

Figure 10. Number of Rules Published in the *Federal Register*, 2002–2012



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

Figure 11. Cumulative Final Rules Published in the Federal Register, 1993–2012



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

dropped by 2.6 percent, to 3,708, but remain the second-highest level so far during the Obama administration. Perhaps even more significant is the increase in proposed rules appearing in the *Federal Register*. There were 2,439 proposed rules in 2010, and that number rose by 18.8 percent to 2,898 in 2011, signaling a likely future rise in final rules. The 2,517 proposed rules of 2012, although a decline from the prior year, are on the high side compared with the decade as a whole.

Despite the current surge, the number of final rules currently being published is lower than it was throughout the 1990s, when the average number of annual regulations finalized was 4,596. The average for the first decade of the 21st century (2000–2009) was 3,945. That is a positive trend, one that policy makers should seek to revive. (For the numbers of proposed and final rules and other documents issued in the *Federal Register* since 1976, see Appendix: Historical Tables, Part B.)

Cumulative Final Rules in the Federal Register

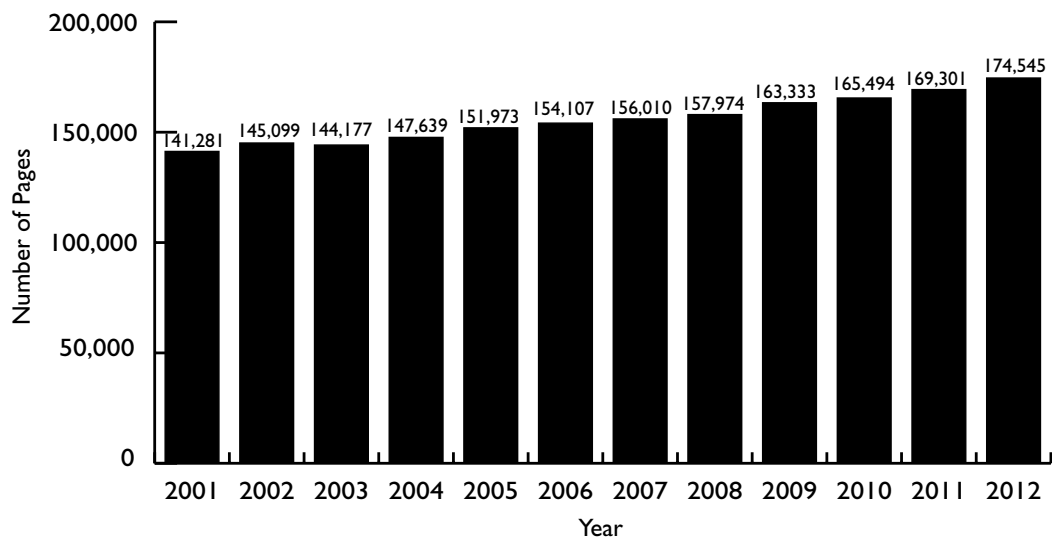
The cumulative effect of regulation can matter a great deal despite yearly fluctuations. The bottom line is that the ceaseless annual outflow of over 3,500 final rules, and often far more, has meant that about 81,883 rules have been issued since 1993, when the first edition of *Ten Thousand Commandments* appeared (see Figure 11).

The Expanding Code of Federal Regulations

The page count for final general and permanent rules in the *Code of Federal Regulations* (CFR) is more modest than that of the *Federal Register*, but the count is substantial nonetheless. Back in 1960, the CFR contained 22,877 pages. Since 1975, the total pages in the complete CFR have grown from 71,224 to 174,545 at year-end 2012, includ-

The ceaseless annual outflow of over 3,500 final rules, and often far more, has meant that about 81,883 rules have been issued since 1993, when the first edition of Ten Thousand Commandments appeared.

Figure 12. Code of Federal Regulations, Total Pages, 2001–2012



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

ing the 1,142-page index. That figure is a 145 percent increase over the period. The number of CFR volumes stands at 238, compared with 133 in 1975. Figure 12 depicts

the CFR's pages for the past decade. (For the detailed breakdown numbers of pages and volumes in the CFR since 1975, see Appendix: Historical Tables, Part C.)

Analysis of the Regulatory Plan and Unified Agenda

Regulatory disclosure has taken a severe beating under the Obama administration. “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions” (the Agenda) normally appears in the *Federal Register* each December (and the Agenda minus the Regulatory Plan each spring). However, these days it seems that has become too much to ask of a national government that no longer prepares even a fiscal budget for itself, let alone a regulatory one. The fall 2011 edition did not appear until January 20, 2012.⁴³ The spring 2012 edition never appeared at all, and an edition with no seasonal designation finally appeared the Friday before the Christmas 2012 holiday with no clarity on how its methodology had been affected by the delay. The Agenda was delayed, as well as the 2012 Guidelines from the OMB’s former director of the Office of Information and Regulatory Affairs, Cass Sunstein, who changed directives to agencies regarding their Agenda reporting:

In recent years, a large number of Unified Agenda entries have been for regulatory actions for which no real activity is expected within the coming year. Many of these entries are listed as “Long-Term.” Please consider terminating the listing of such entries until some action is likely to occur...

Many entries are listed with projected dates that have simply been moved back year after year, with no action taken. Unless your agency realistically intends to take action in the next 12 months, you can remove these items from the Agenda.⁴⁴

Some healthy skepticism is justified regarding the numbers in the most recent Agenda, given the lack of both a clarification of their legitimacy and an explanation for delay by the administration. But like the *Federal Register*, they are what we have. As regulatory expert Susan Dudley notes, the changes might be beneficial, but “to the extent that reclassifying actions reduces the public’s ability to understand upcoming regulatory activity, the revisions could reduce transparency and accountability.”⁴⁵

In normal circumstances, the Agenda helps give the reader a sense of the flow in the regulatory pipeline, by detailing rules recently completed, plus those anticipated within the upcoming 12 months by federal departments, agencies, and commissions (63 in the newest edition). As a cross-sectional snapshot of rules moving through the regulatory pipeline, the Agenda compiles agency-reported federal regulatory actions at several stages:

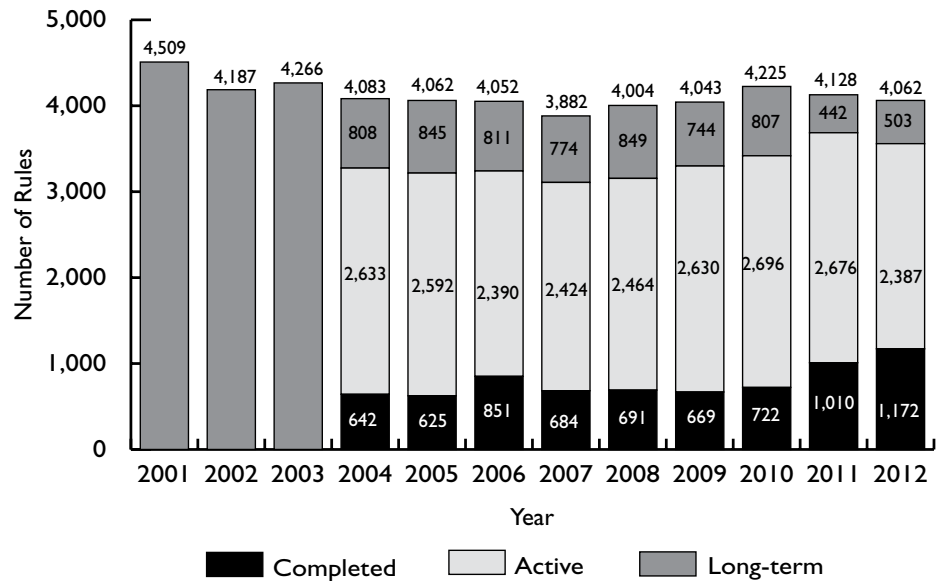
- Prerule actions;
- Proposed and final rules;
- Actions completed during the previous few months; and
- Anticipated longer-term rulemakings beyond a 12-month horizon.

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

Another complication is that agencies are not required to limit their regulatory activity

Regulatory disclosure has taken a severe beating under the Obama administration.

Figure 13. Total Agency Rules in the Unified Agenda Pipeline, 2001–2012



Source: Data compiled from “Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, fall edition, consecutive years,” and database at <http://reginfo.gov>. Note: “Active” rules consist of rules at the prerule, proposed, and final stages. Pre-2004 online database totals do not match the printed, paper editions of that era, so this survey retains the data as compiled in those earlier print editions.

to what they publish in the Agenda. As the *Federal Register* has noted:

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.⁴⁶

The Obama administration’s disregard of the only federal regulatory planning document makes that admission more ominous.

4,062 New Rules in the Pipeline

The year-end 2012 Agenda finds federal agencies, departments, and commissions at work on 4,062 regulations in the active (pre-rule, proposed, and final), just-completed, and long-term stages.⁴⁷ This level is down by 1.6 percent from 4,128 in 2011, but it represents an increase of 1.4 percent from the

4,004 of President George W. Bush’s final year (see Figure 13). The number of rules in the Agenda peaked at 5,119, 19 years ago in 1994. Although the count has since delined, it has remained above 4,000 each year except 2007, when the count dipped to 3,882. (For a history of the numbers of rules in the Unified Agenda since 1983, see Appendix: Historical Tables, Part D.)⁴⁸

Figure 13 shows that, although the overall number of rules is down over the past two years, it has been remarkably flat over the decade. The number of completed rules, however, has been rising steadily since 2008 under President Obama: from 669 to 1,172, a 75.2 percent increase. Completed rules increased by 16 percent over the last year alone. Rules designated long-term are also up over the past year but had been higher mid-decade. Rules at the active stage appear to have declined substantially, but where exactly these in-process rules went is unclear.

The total pipeline counts depicted in both Table 3 and Figure 13 include the numbers of rules at the completed, active, and long-term stages. As seen in Figure 13, the number of rules at the “completed” stage has increased steadily since 2008. They rose by 39.89 percent from 2010 to 2011 (from 722 to 1,010) and the noted 16 percent between 2011 and 2012 (from 1,010 to 1,172). *Federal Register* counts of final rules promulgated mirror this increase.

Announced “active” rules declined again, from 2,676 to 2,387, but that does not square with the administration’s public agenda and with what we know, for example, of EPA rules in the pipeline, and with parallel metrics, such as the number of final published rules in the *Federal Register*.

Announced “long-term” rules shown in Figure 13 had declined from 807 to 442 between 2010 and 2011, but rose again to 503 in 2012.

Table 3 breaks down the 4,062 rules according to issuing department, agency, or commission. Each year, a relative handful of agencies accounts for a large number of the rules produced. The five departments and agencies listed in Table 4—the departments of the Treasury, Commerce, the Interior, Agriculture, and Transportation—were the biggest rulemakers. These top five, with 1,730 rules among them, account for 42.6 percent of all rules in the Agenda pipeline. For the first time, the Environmental Protection Agency does not appear in the top five (it is sixth). Including the EPA’s 223 rules brings the total to 1,953 rules, or 48 percent. (For the num-

Table 3. Unified Agenda Entries by Department and Agency, (Year-end 2012)

	Total Rules	Unified Agenda			Regulatory Plan Component		
		Active	Completed	Long-term	Active	Completed	Long-term
All Agencies	4062	2387	1172	503	121	3	1
Dept. of Agriculture	276	188	73	15	20		
Dept. of Commerce	415	219	186	10			
Dept. of Defense	146	90	56		8		
Dept. of Education	24	13	11		1		
Dept. of Energy	108	75	19	14	3		
Dept. of Health & Human Services	204	119	65	20	17		
Dept. of Homeland Security	160	89	24	47	19		
Dept. of Housing & Urban Development	58	42	16				
Dept. of the Interior	320	230	73	17			
Dept. of Justice	112	82	17	13	4		1
Dept. of Labor	98	68	16	14		3	
Dept. of State	63	43	20				
Dept. of Transportation	232	140	69	23			
Dept. of Treasury	487	326	80	81			
Dept. of Veterans' Affairs	85	46	38	1			

**Table 3. Unified Agenda Entries by Department and Agency,
(Year-end 2012) (continued)**

	Total Rules	Unified Agenda			Regulatory Plan Component		
		Active	Completed	Long-term	Active	Completed	Long-term
Agency for International Development	10	6	4				
Architectural and Transportation Barriers Compliance Board	8	7	1		3		
Commodity Futures Trading Commission	83	36	47				
Consumer Financial Protection Bureau	34	22	9	3			
Consumer Product Safety Commission	48	22	11	15			
Corporation for National & Community Service	5		1	4			
Court Services/Offender Supervision, D.C.	3	2	1				
CPBSD*	2	1		1			
Environmental Protection Agency	223	117	71	35	17		
Equal Employment Opportunity Commission	9	6	3		4		
Export-Import Bank of the United States	1		1				
Farm Credit Administration	30	25	5				
Federal Acquisition Regulation	50	26	24				
Federal Communications Commission	118		1	117			
Federal Deposit Insurance Corporation	22	7	13	2			
Federal Energy Regulatory Commission	40	2	21	17			
Federal Housing Finance Agency	32	21	9	2			
Federal Maritime Commission	4	1	3				
Federal Mediation & Conciliation Service	1		1				
Federal Reserve System	25	11	13	1			
Federal Trade Commission	23	21	2				
Financial Stability Oversight Council	2		2				
General Services Administration	21	14	7				
Institute of Museum & Library Services	3		1	2			
National Aeronautics & Space Administration	37	14	23				

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

	Total Rules	Unified Agenda			Regulatory Plan Component		
		Active	Completed	Long-term	Active	Completed	Long-term
National Archives & Records Administration	6	2	4				
National Credit Union Administration	31	20	11				
National Endowment for the Arts	8	8					
National Endowment for the Humanities	3	3					
National Indian Gaming Commission	15	5	10				
National Labor Relations Board	1			1			
National Science Foundation	3	2	1				
Nuclear Regulatory Commission	73	27	23	23	10		
Office of Government Ethics	4	3		1			
Office of Management & Budget	5	2	2	1			
Office of Personnel Management	73	46	25	2			
Peace Corps	5	4	1				
Pension Benefit Guaranty Corporation	13	8	1	4			
Postal Regulatory Commission	2	1	1				
Railroad Retirement Board	1			1			
Recovery Accountability & Transparency Board	2			2			
Securities & Exchange Commission	89	63	22	4			
Selective Service System	0						
Small Business Administration	43	28	15		5		
Social Security Administration	49	28	12	9	10		
Special Inspector General For Afghanistan Reconstruction	4		4				
Surface Transportation Board	10	6	3	1			
TOTAL	4,062	2,387	1,172	503	121	3	1

Sources: Compiled from "Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," from online edition at <http://www.reginfo.gov>.

bers of rules by department and agency from previous year-end editions of the Agenda, see Appendix: Historical Tables, Part E.)

Federal agencies have noted the following initiatives, among others, in recent

Agenda editions. (An even more extensive list consisting of economically significant rules in 2012 is available in Appendix: Historical Tables, Part F; economically significant rules will be discussed in the next section.)

Table 4. Top Rule-Producing Departments, Year-End 2012

Department or Agency	Number of Regulations
1. Department of the Treasury	487
2. Department of Commerce	415
3. Department of the Interior	320
4. Department of Agriculture	276
5. Department of Transportation	232
TOTAL	1,730

Note: The Environmental Protection Agency, formerly always in the top five, is sixth with 223 rules in the pipeline.

Notable Regulations by Agency

Department of Agriculture

- Mandatory country-of-origin labeling of beef, pork, lamb, fish, and peanuts
- National school lunch and school breakfast programs: nutrition standards for all foods sold in school; and certification of compliance with meal requirements for the national school lunch program (as required by the Healthy, Hunger-Free Kids Act of 2010)
- Rural Energy for America Program
- Rural broadband access loans and loan guarantees
- Inspection regulations for eggs and egg products
- Performance standards for ready-to-eat processed meat and poultry products
- New poultry slaughter inspection regulations
- 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

- Taking of marine mammals incidental to conducting geological and geophysical exploration of mineral and energy resources on the outer continental shelf

Department of Health and Human Services

- Substances prohibited from use in animal food or feed; registration of food and animal feed facilities
- Produce safety regulation
- Patient Protection and Affordable Care Act; standards related to essential health benefits, actuarial value, and accreditation; and Medicaid, exchanges, and children's health insurance programs: eligibility, appeals, and other provisions
- Price regulation: home health prospective payment system rate for calendar year (CY) 2014; changes to the end-stage renal disease prospective payment system for CY 2014; prospective payment system and consolidated billing for skilled nursing facilities; prospective payment system for inpatient rehabilitation facilities
- Revision of the Nutrition Facts and Supplement Facts labels: serving sizes of foods that can reasonably be consumed in one eating occasion; dual-column labeling; and modification of the reference amounts customarily consumed

- Nutrition labeling for food sold in vending machines and for restaurant menu items
- Food labeling: trans fatty acids in nutrition labeling, nutrient content claims, and health claims
- Tobacco products subject to the Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act
- Prevention of *Salmonella enteritidis* in shell eggs
- Good manufacturing practice in manufacturing, packing, or holding dietary ingredients and dietary supplements
- 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
- Increased safety measures for oil and gas operations on the outer continental shelf

Department of Justice

- Nondiscrimination on the basis of disability: accessibility of Web information and services of state and local governments
- National standards to prevent, detect, and respond to prison rape

Department of Labor

- Group health plans and health insurance issuers relating to coverage of preventive services under the Patient Protection and Affordable Care Act
- Walking working surfaces and personal fall protection systems (slips, trips, and fall prevention)
- Application of the Fair Labor Standards Act to domestic service
- Improved fee disclosure for pension plans
- 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 Homeland Security

- Computer Assisted Passenger Prescreening System, providing government access to passenger reservation information
- Passenger screening using advanced imaging technology
- Importer security filing
- Air cargo screening and inspection of towing vessels
- Minimum standards for driver's licenses and ID cards acceptable to federal agencies
- United States Visitor and Immigrant Status Indicator Technology program, which is authorized to collect biometric data from travelers and to expand to the 50 most highly trafficked land border ports

Department of the Interior

- Revised requirements for well plugging and platform decommissioning

Department of Energy

- Energy-efficiency and conservation standards: wine chillers; battery chargers and power supplies; televisions; residential dehumidifiers; walk-in coolers and freezers; manufactured housing, residential

The number of completed rules has been rising steadily since 2008 under President Obama. Completed rules increased by 16 percent over the last year alone.

- furnaces, boilers, and mobile home furnaces; electric distribution transformers; commercial refrigeration units and heat pumps; clothes washers and dryers, room air conditioners, and dishwashers; pool heaters and direct heating equipment; fluorescent and incandescent lamps; small electric motors; and residential central air conditioners and heat pumps
- Advanced technology vehicles manufacturing incentive program

Department of Transportation

- Passenger car and light truck Corporate Average Fuel Economy standards (2017 model years and beyond)
- Automotive regulations for car lighting, door retention, brake hoses, daytime running-light glare, and side-impact protection
- Sound for hybrid and electric vehicles
- Minimum training requirements for operators and training instructors of multiple trailer combination trucks
- Hours of service, rest, and sleep for truck drivers; and electronic logging devices and hours-of-service supporting documents
- Requirement for installation of seat belts on motorcoaches
- Heavy-vehicle speed limiters and electronic stability control systems for heavy vehicles
- Positive train control systems amendments
- Aging aircraft safety
- Flight crew duty limitations and rest requirements
- Upgrade of head restraints in vehicles
- Rear center lap and shoulder belt requirement
- Registration and training for operators of propane tank filling equipment
- Monitoring systems for improved tire safety and tire pressure
- Hazardous materials: transportation of lithium batteries

Environmental Protection Agency

- Control of air pollution from motor vehicles: Tier 3 motor vehicle emission and fuel standards

- Clean air visibility, mercury, and ozone implementation rules
- Effluent limitations guidelines and standards for the steam electric power generating point source category
- Revision of stormwater regulations to address discharges from developed sites
- Formaldehyde emissions standards for composite wood products
- Review of National Ambient Air Quality Standards for lead, ozone, sulfur dioxide, particulate matter, and nitrogen dioxide
- Revision of underground storage tank regulations: revisions to existing requirements and new requirements for secondary containment and operator training
- Revision of new source performance standards for new residential wood heaters
- Petroleum refineries—new source performance standards
- Rulemakings regarding lead-based paint; and Lead; Renovation, Repair, and Painting Program for public and commercial buildings
- 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

Architectural and Transportation Barriers Compliance Board

- Americans with Disabilities Act accessibility guidelines for passenger vessels

Office of Personnel Management

- Multistate exchanges; implementations for Affordable Care Act provisions

Consumer Product Safety Commission

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

Federal Communications Commission

- Net neutrality order
- Broadband over power line systems
- Mobile personal satellite communications
- 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 the Treasury

- Prohibition of funding of unlawful Internet gambling
- Risk-based capital guidelines, capital adequacy guidelines

“Economically Significant” Off-Budget Rules in the Agenda

A subset of the Agenda’s 4,062 rules is classified as “economically significant,” meaning that agencies anticipate yearly economic impacts of at least \$100 million. Those impacts generally amount to increased costs, although occasionally an economically significant rule is intended to reduce costs. As Table 5 shows, 224 economically significant rules from 25 separate departments and agencies appear at the active (prerule, proposed rule, and final rule), completed, and long-term stages.

As Figure 14 shows, these 224 rules represent an increase over 212 in 2011, but the count is the same as that seen in 2010. Note the substantially higher level of these rules in the pipeline compared with the early part of the decade.

President Obama declared during his 2012 State of the Union address that he had issued fewer rules in his first three years than his predecessor had.⁴⁹ That statement was technically true with respect to total rules finalized per the *Federal Register* up to that point, but Obama’s proposed rules are mounting (see Figure 10). The president’s claim also held together somewhat with respect to the overall number of rules in the pipeline per the Agenda (see Figure 13), but that may be due to inertia owing to the level of rulemaking inherited by each chief executive.⁵⁰ It may also be due to rules simply not being reported because of the tardiness of the Unified Agenda.

However, when it comes to economically significant rules at the completed and active stage, Figure 14 shows that the current administration is in a class by itself when one looks at the year-end flow. The overall number of “economically significant” rules issued during the current administration is higher than that seen at any time earlier in the decade. Bush started the trend; Obama continued it.

High-cost “economically significant” rules are scattered among the 4,062 rules in the

The overall number of “economically significant” rules issued during the current administration is higher than that seen at any time earlier in the decade. Bush started the trend; Obama continued it.

Table 5. 224 Rules in the Pipeline Expected to have \$100 Million Annual Economic Impact (Year-End 2012 Unified Agenda)

	Rules	Active	Completed	Long-term
All Agencies	224	136	57	31
Dept. of Agriculture	20	18	1	1
Dept. of Commerce	3	3		
Dept. of Defense	2	2		
Dept. of Education	6	3	3	
Dept. of Energy	18	8	3	7
Dept. of Health & Human Services	64	39	24	1
Dept. of Homeland Security	15	11	1	3
Dept. of Housing and Urban Development	2	1	1	
Dept. of the Interior	4	1	3	
Dept. of Justice	5	2	1	2
Dept. of Labor	17	11	3	3
Dept. of State	1		1	
Dept. of Transportation	15	10	4	1
Dept. of Treasury	7	4	1	2
Dept. of Veterans' Affairs	5	4	1	
ACBCB	1	1		
Consumer Product Safety Commission	2		1	1
Environmental Protection Agency	20	11	6	3
Equal Employment Opportunity Commission	0			
Federal Communications Commission	7			7
Federal Deposit Insurance Corporation	4	3	1	
National Labor Relations Board	0			
Nuclear Regulatory Commission	4	3	1	
Office of Personnel Management	1	1		
Postal Regulatory Commission	1		1	
TOTAL	224	136	57	31

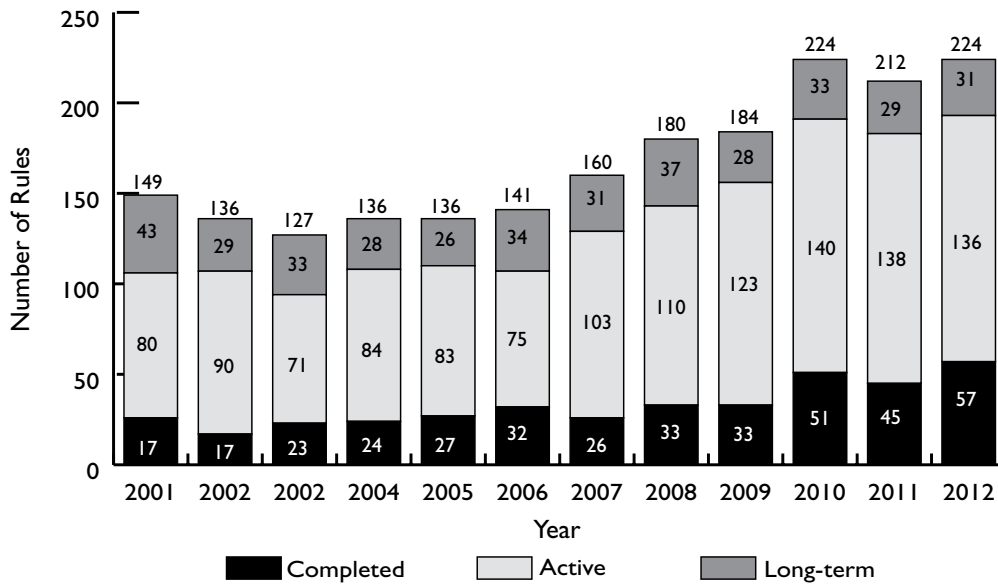
Sources: Compiled from "The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, from online edition at <http://www.reginfo.gov>.

Agenda. Each will have an annual impact of at least \$100 million, so those rules might be expected to impose annual costs of at least \$22.4 billion (224 rules multiplied by the \$100 million economic significance threshold. For a full list, see Appendix: Historical Tables, Part F).

A breakdown of the \$22.4 billion in regulatory costs is rarely presented directly for each rule in the Agenda. Note that this represents a floor for regulatory costs. Moreover, it is not

a one-time cost, but a recurring annual cost to be added to prior years' costs cumulatively. And, as noted, agencies are not limited to what they list in the Agenda. Actual costs can sometimes best be found by combing through the document, searching online, or gathering agency regulatory impact analyses. 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 analysis.

Figure 14. “Economically Significant” Rules in the Agenda Pipeline, 2001–2012



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

Since the recent online database editions of the Agenda break economically significant rules into completed, active, and long-term, it is now easier to compile a tally of economically significant rules completed annually over the years. Figure 15 presents the totals of “completed” rules from the spring and fall Agendas. (Completed rules are “actions or reviews the agency has completed or withdrawn since publishing its last agenda.”)

Total economically significant rules finalized annually were down slightly from 2010 to 2011—from 81 to 79—but were up by 92.7 percent over five years and 108 percent over 10 years. Figure 15 also shows that the most recent year, 2012, presents only fall data and omits spring, thus making comparisons more difficult. In any event, the 57 rules reported represent a higher level than all previous fall Agendas.

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 2012, 3,838 federal rules

were not considered officially economically significant by the government (4,062 total rules minus the 224 economically significant ones), but that categorization does not mean that many of those rules are not economically significant in the ordinary sense of the term. A rule may cost up to \$99 million and escape the official “economically significant” designation.

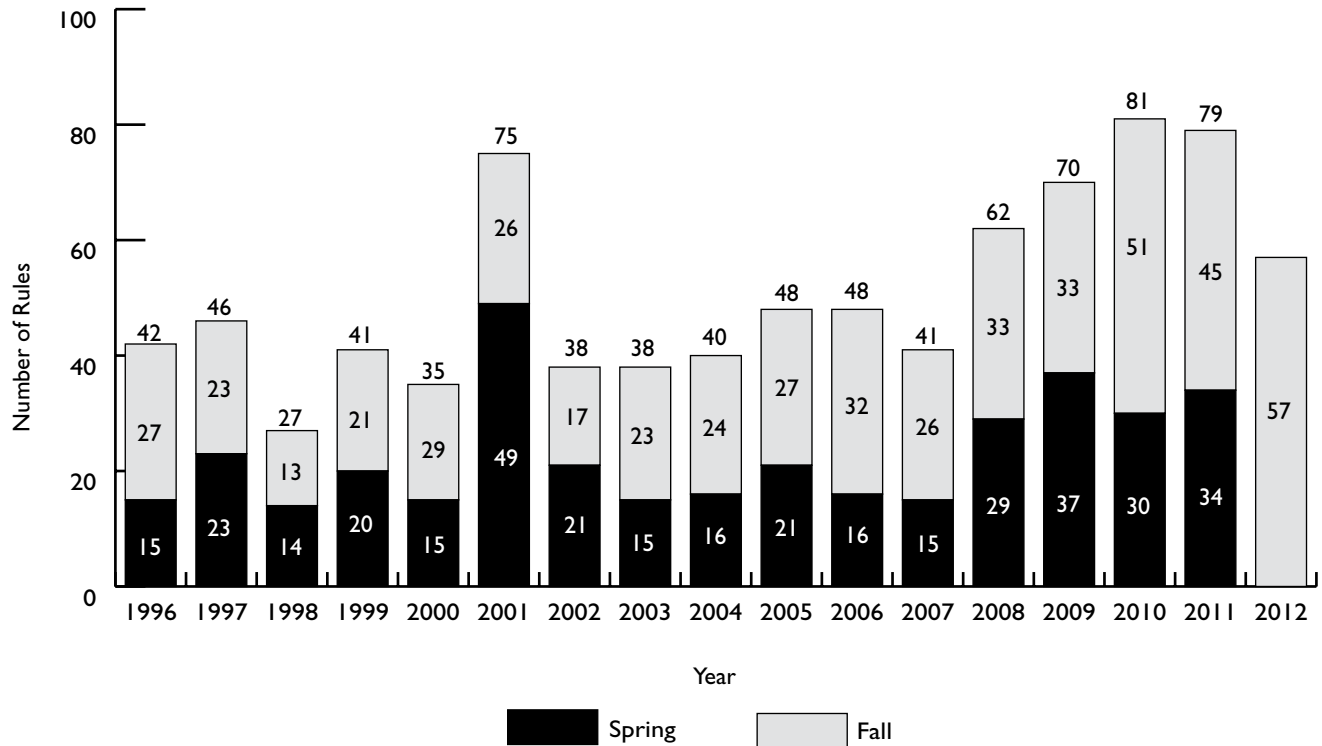
Federal Regulations Affecting Small Business

The Regulatory Flexibility Act directs federal agencies to assess the effects of their rules on small businesses. As the *Federal Register* notes, “The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the *Federal Register* describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities.”⁵¹

Figure 16 is based on the Agenda directive. It shows that annual rules significantly af-

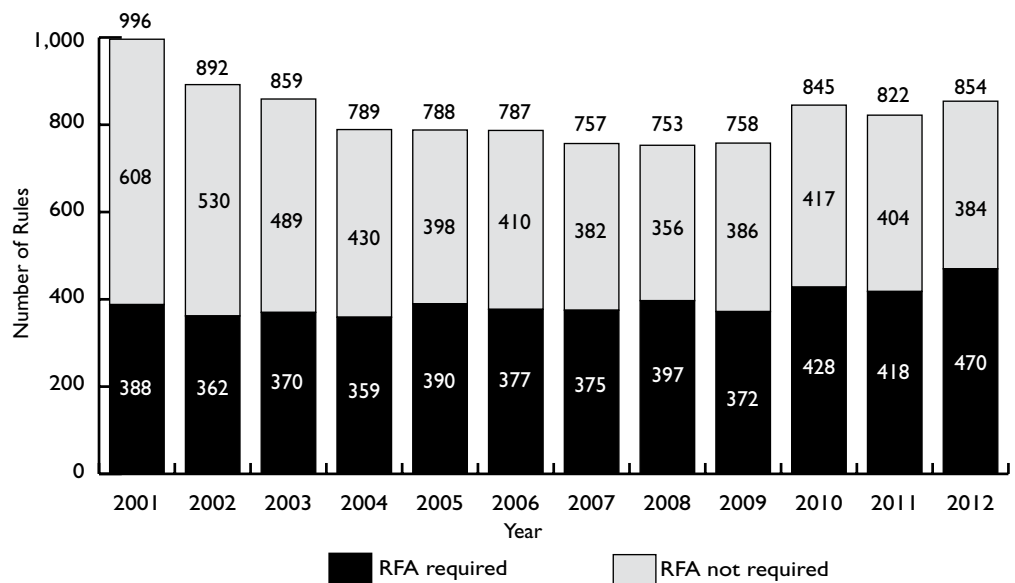
A rule may cost up to \$99 million and escape the official “economically significant” designation.

Figure 15. Number of Completed “Economically Significant” Rules Annually in the Unified Agenda (Spring plus Fall Edition)



Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, Spring and Fall editions, various years.

Figure 16. Rules Affecting Small Business, 2001–2012



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

fecting small business—the administration’s claims to have issued fewer rules notwithstanding—bumped upward in the past few years. At year-end 2012, overall rules affecting small business stand at 854. The number of rules with small-business impacts under Obama regularly exceeds 800 for the first time since 2002.

Of these 854 rules in play with small-business impacts, 470 required regulatory flexibility analyses (RFAs), a 12.4 percent increase over 2011 and a level far above anything seen in the past decade. The number has exceeded 400 only under Obama. Another 384 rules were otherwise deemed by

agencies to affect small business, but not to rise to the level of requiring an RFA.

Table 6 breaks out the 2012 Agenda’s 854 rules affecting small business by department, agency, and commission. Six of them—the departments of Commerce, Health and Human Services, Agriculture, and Transportation; the Federal Communications Commission (FCC); and the Environmental Protection Agency—account for 526, or 62 percent, of the rules affecting small business.

The overall proportion of total rules affecting small business, as noted in Table 6, stands at 21 percent. (For the numbers of rules affect-

Table 6. Unified Agenda Entries Affecting Small Business by Department, Agency, and Commission, Year-End 2012

	Total Rules	Number Affecting Small Business						Total	% Affecting Small Business
		RFA Required			RFA Not Required				
		Active	Completed	L-T	Active	Completed	L-T		
Dept. of Agriculture	276	28	10	1	24	16	1	80	29.0
Dept. of Commerce	415	60	57	3	22	15	1	158	38.1
Dept. of Defense	146	5	10	0	8	2	0	25	17.1
Dept. of Education	24	0	0	0	0	0	0	0	0.0
Dept. of Energy	108	5	3	0	0	0	0	8	7.4
Dept. of Health & Human Services	204	30	11	2	24	16	2	85	41.7
Dept. of Homeland Security	160	8	1	6	6	0	6	27	16.9
Dept. of Housing & Urban Development	58	0	0	0	0	0	0	0	0.0
Dept. of the Interior	320	3	2	0	13	6	0	24	7.5
Dept. of Justice	112	0	0	0	3	1	5	9	8.0
Dept. of Labor	98	4	0	2	14	2	2	24	24.5
Dept. of State	63	0	0	0	25	6	0	31	49.2
Dept. of Transportation	232	26	0	1	21	8	9	65	28.0
Dept. of Treasury	487	3	1	0	23	4	8	39	8.0
Dept. of Veterans' Affairs	85	0	0	0	1	0	0	1	1.2
Environmental Protection Agency	223	5	2	2	18	13	9	49	22.0
Agency for International Development	10	0	0	0	0	0	0	0	0.0
Architectural and Transportation Barriers Compliance Board	8	1	0	0	0	0	0	1	12.5
Commission on Civil Rights									

Table 6. Unified Agenda Entries Affecting Small Business by Department, Agency, and Commission, Year-End 2012 (continued)

	Total Rules	Number Affecting Small Business						Total	% Affecting Small Business
		RFA Required			RFA Not Required				
		Active	Completed	L-T	Active	Completed	L-T		
Commodity Futures Trading Commission	83	0	0	0	0	0	0	0	0.0
Consumer Financial Protection Bureau	34	6	1	1	0	0	0	8	23.5
Consumer Product Safety Commission	48	0	2	0	0	0	0	2	4.2
Corp. for National & Community Service	5	0	0	0	0	0	0	0	0.0
Court Sevices/Offender Supervision, D.C.	3	0	0	0	0	0	0	0	0.0
CPBSD*	2	0	0	0	0	0	0	0	0.0
Equal Employment Opportunity Commission	9	0	0	0	1	2	0	3	33.3
Export-Import Bank of the United States	1	0	0	0	0	0	0	0	0.0
Farm Credit Administration	30	0	0	0	0	0	0	0	0.0
Federal Acquisition Regulation	50	9	5	0	1	0	0	15	30.0
Federal Communications Commission	118	0	1	84	0	0	4	89	75.4
Federal Deposit Insurance Corporation	22	3	1	1	0	0	0	5	22.7
Federal Energy Regulatory Commission	40	0	0	0	0	0	0	0	0.0
Federal Housing Finance Agency	32	0	0	0	0	0	0	0	0.0
Federal Maritime Commission	4	0	0	0	0	1	0	1	25.0
Federal Mediation & Conciliation Service	1	0	0	0	0	0	0	0	0.0
Federal Reserve System	25	4	4	1	1	2	0	12	48.0
Federal Trade Commission	23	0	0	0	19	2	0	21	91.3
Financial Stability Oversight Council	2	0	0	0	0	0	0	0	0.0
General Services Administration	21	1	1	0	1	0	0	3	14.3
Institute of Museum and Library Services	3	0	0	0	0	0	0	0	0.0
National Aeronautics & Space Administration	37	0	0	0	2	0	0	2	5.4
National Archives & Records Administration	6	0	0	0	0	0	0	0	0.0
National Credit Union Administration	31	0	0	0	0	2	0	2	6.5
National Endowment for the Arts	8	0	0	0	2	0	0	2	25.0

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

	Total Rules	Number Affecting Small Business						Total	% Affecting Small Business
		RFA Required			RFA Not Required				
		Active	Completed	L-T	Active	Completed	L-T		
National Endowment for the Humanities	3	0	0	0	0	0	0	0	0.0
National Indian Gaming Commission	15	0	0	0	0	0	0	0	0.0
National Labor Relations Board	1	0	0	0	0	0	0	0	0.0
National Science Foundation	3	0	0	0	0	0	0	0	0.0
Nuclear Regulatory Commission	73	3	1	0	1	1	0	6	8.2
Office of Government Ethics	4	0	0	0	0	0	0	0	0.0
Office of Management & Budget	5	0	0	0	0	0	0	0	0.0
Office of Personnel Management	73	0	0	0	0	0	0	0	0.0
Peace Corps	5	0	0	0	0	0	0	0	0.0
Pension Benefit Guaranty Corporation	13	0	0	0	0	0	0	0	0.0
Postal Regulatory Commission	2	0	0	0	0	0	0	0	0.0
Railroad Retirement Board	1	0	0	0	0	0	0	0	0.0
Recovery Accountability & Transparency Board	2	0	0	0	0	0	0	0	
Securities & Exchange Commission	89	11	4	0	3	1	0	19	21.3
Selective Service System									
Small Business Administration	43	26	8	0	0	4	0	38	88.4
Social Security Administration	49	0	0	0	0	0	0	0	0.0
Special Inspector General for Afghanistan Reconstruction	4	0	0	0	0	0	0	0	0.0
Surface Transportation Board	10	0	0	0	0	0	0	0	0.0
TOTAL	4,062	241	125	104	233	104	47	854	21.0

Sources: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions"; and from online edition at <http://www.reginfo.gov>. Note: RFA = regulatory flexibility analysis, L-T = long-term.

ing small business broken down by department and agency for Agendas since 1996, see Appendix: Historical Tables, Part G.)

For a bit of extra perspective on the small-business regulatory climate, Box 1 depicts a partial list of the basic, non-sector-specific laws and regulations that affect small business.

Federal Regulations Affecting State and Local Governments

Ten Thousand Commandments primarily emphasizes 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 demands for reform. As a result, Congress passed the Unfunded Mandates Act in 1995 as a means of getting lawmakers to pay closer attention to legislation's effect on states and localities.

As Figure 17 shows, agencies report that 268 of the 4,062 rules in the 2012 Agenda pipeline will affect local governments.⁵² Since the passage of the Unfunded Mandates Act in the mid-1990s, the number of overall rules affecting local governments has fallen by

Box I. Federal Workplace Regulation Affecting Growing Businesses

Assumes nonunion, nongovernment contractor, with interstate operations and a basic employee benefits package. Includes general workforce-related regulation only. Omitted are (a) categories such as environmental and consumer product safety regulations and (b) regulations applying to specific types of businesses, such as mining, farming, trucking or financial firms.

1 EMPLOYEE

- Fair Labor Standards Act (overtime and minimum wage [27 percent minimum wage increase since 1990])
- Social Security matching and deposits
- Medicare, Federal Insurance Contributions Act (FICA)
- Military Selective Service Act (90 days leave for reservists; rehiring of discharged veterans)
- Equal Pay Act (no sex discrimination in wages)
- Immigration Reform Act (eligibility must be documented)
- Federal Unemployment Tax Act (unemployment compensation)
- Employee Retirement Income Security Act (standards for pension and benefit plans)
- Occupational Safety and Health Act
- Polygraph Protection Act

4 EMPLOYEES: ALL THE ABOVE, PLUS

- Immigration Reform Act (no discrimination with regard to national origin, citizenship, or intention to obtain citizenship)

15 EMPLOYEES: ALL THE ABOVE, PLUS

- Civil Rights Act Title VII (no discrimination with regard to race, color, national origin, religion, or sex; pregnancy-related protections; record keeping)
- Americans with Disabilities Act (no discrimination, reasonable accommodations)

20 EMPLOYEES: ALL THE ABOVE, PLUS

- Age Discrimination Act (no discrimination on the basis of age against those 40 and older)
- Older Worker Benefit Protection Act (benefits for older workers must be commensurate with younger workers)
- Consolidation Omnibus Budget Reconciliation Act (COBRA) (continuation of medical benefits for up to 18 months upon termination)

25 EMPLOYEES: ALL THE ABOVE, PLUS

- Health Maintenance Organization Act (HMO Option required)
- Veterans' Reemployment Act (reemployment for persons returning from active, reserve, or National Guard duty)

50 EMPLOYEES: ALL THE ABOVE, PLUS

- Family and Medical Leave Act (12 weeks unpaid leave or care for newborn or ill family member)

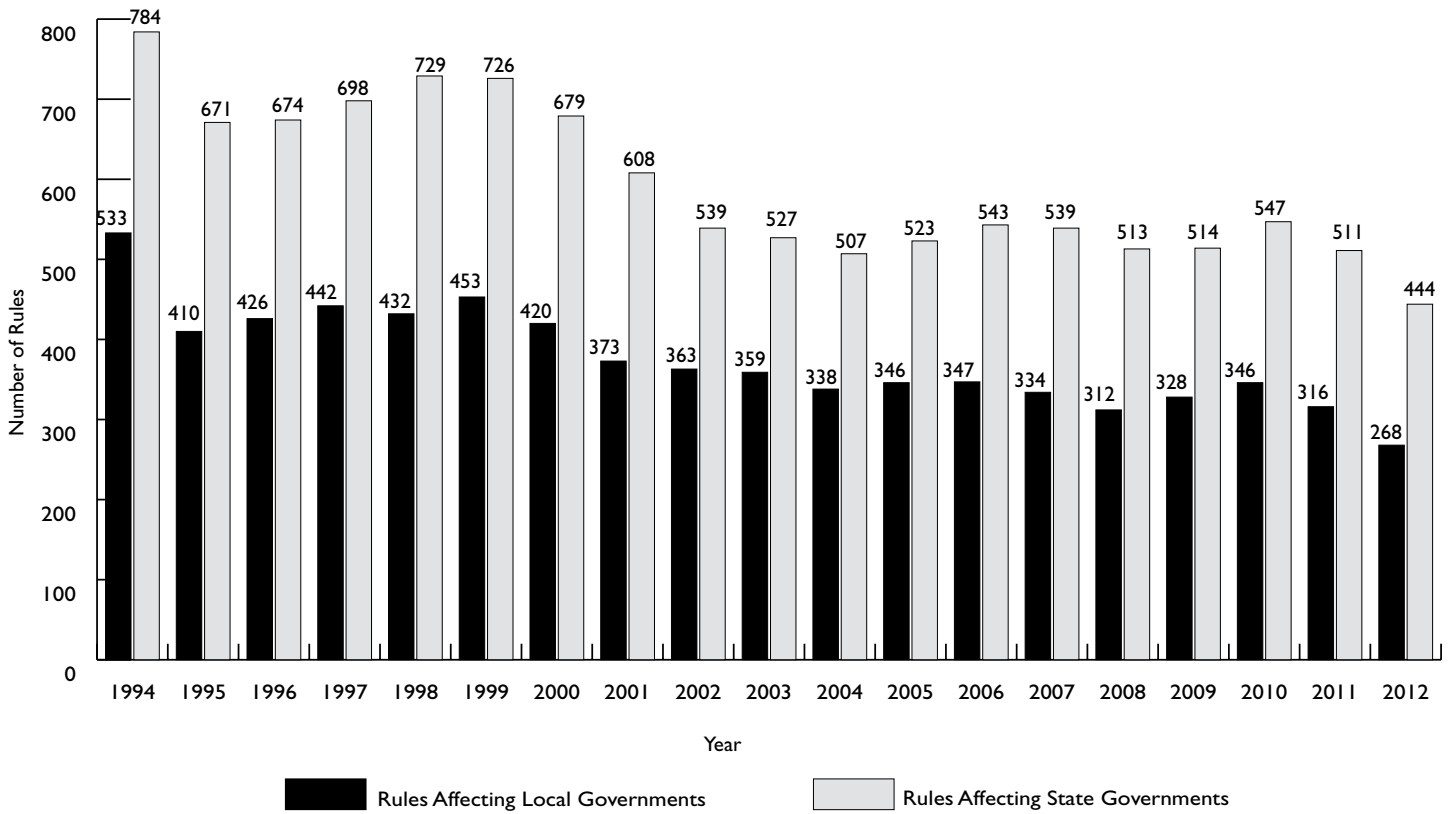
100 EMPLOYEES: ALL THE ABOVE, PLUS

- WARN Act (60-days written plant closing notice)—Civil Rights Act (annual EEO-1 form)

49.7 percent, from 533 to 268, the lowest level yet seen over this period. Figure 15 also shows that the total number of regulatory actions affecting state governments stands at 444, down from 511 in 2011 and also the lowest level seen since 1996. During the period since passage of the unfunded mandates

legislation, the count has dropped (from 784) by 43.4 percent. (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 H.)

Figure 17. Rules Affecting State and Local Governments, 1994–2012



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>.

Government Accountability Office Database on Regulations

The various federal reports and databases on regulations serve different purposes:

- The *Federal Register* shows the aggregate number of proposed and final rules (both those that affect the private sector and those that deal with internal government machinery or programs).
- The Unified Agenda provides details about the overall number of rules at various stages in the regulatory pipeline, as well as those with economically significant effects and those affecting small business and state and local governments.

The 1996 Congressional Review Act (CRA) requires agencies to submit reports to Congress on their major rules—defined as those costing \$100 million or more. Owing to such reports, which are maintained in a database at the Government Accountability Office, 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.⁵³

The CRA 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. Despite the issuance of thousands of rules since the Act's passage, including 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 of major rules, depicts the presumed number of final major rule reports issued by the GAO on agency rules through 2012. There were 67 rules in 2012 and 80 in 2011.⁵⁴ The 99 rules in 2010 had been the highest number since this tabulation began following passage of the CRA.

The Commodity Futures Trading Commission may be seen to be increasingly active in the wake of the Dodd-Frank financial regulation law. The Department of Health and Human Services, the Department of Labor, and the Environmental Protection Agency are among the most active regulatory agencies. The coming years may be instructive on how increased federal spending affects the generation of major rules.

A March 2012 Heritage Foundation analysis of the current administration's regulatory record isolated the major rules listed in the GAO database affecting only the private sector, and it further distinguished between those that are deregulatory and those that are regulatory. That compilation found that 106 major rules were adopted during the first three years of the Obama administration, for an increase of \$46 billion in annual costs.⁵⁵

Table 7. Government Accountability Office Reports on Major Rules, 1998–2012

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Department of Agriculture	5	6		9	7	4	7	6	8	7	3	12	6	4	2
Department of Commerce	1	5		2			1			2	1	2			
Department of Defense	2	1		3	2			1			6	4	4		
Department of Education		1							2	1	2	6	5	2	4
Department of Energy			3	3	1	1				3	3	7	4	5	1
Department of Health & Human Services	18	7	17	15	13	17	22	22	16	19	24	17	24	24	23
Department of Homeland Security						2	2	3	2	4	5	1	3	1	1
Department of Housing & Urban Development		1	2	1			1	1			2	1	1	2	
Department of the Interior	7	6	9	8	7	7	8	6	6	5	10	7	7	6	7
Department of Justice	1			4	3		1	1	1				3	1	1
Department of Labor	2		5	3	2		1	1	3	3	2	1	6	2	3
Department of State											1		1		1
Department of Transportation	1	4		3	6	4	5	3	1	3	8	6	5	2	2
Department of the Treasury	1			1		1	1		1	1	1		4	1	2
Department of Veterans Affairs				3	1	2		1		1		2	2	2	1
Architectural Barriers Compliance Board			1				1								
Bureau of Consumer Financial Protection														1	1
Commodity Futures Trading Commission														6	9
Consumer Product Safety Commission									1					1	
Emergency Oil & Gas Loan Board		1													
Emergency Steel Guarantee Loan Board		1													
Environmental Protection Agency	9	5	20	4	1	3	7	3	8	2	9	3	8	6	5
Equal Employment Opportunity Commission														1	
Federal Communications Commission	16	6	6	3	3	2	4	1	1	2	6				

Case Studies

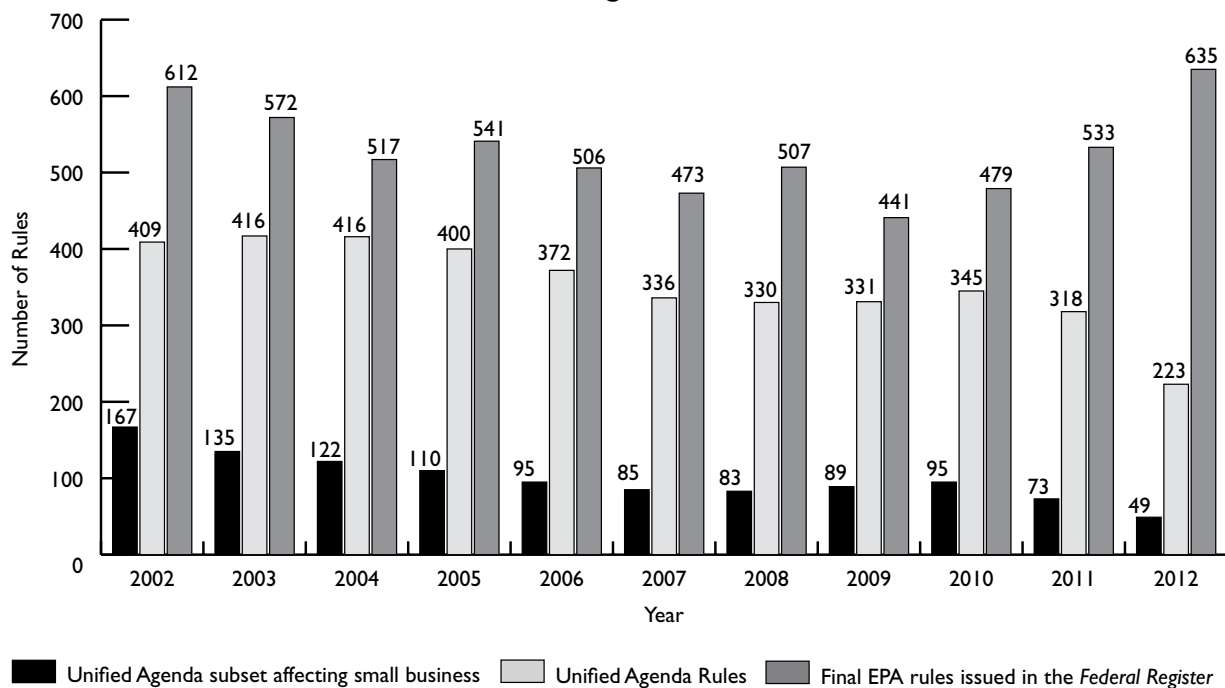
Regulation and the Environmental Protection Agency

As noted, for the first time, the Environmental Protection Agency does not appear among the top five rulemaking agencies (it is sixth with 223 rules; see Table 4). Anecdotally, that ranking does not square with the level of regulatory impact driven by that agency. In contrast, one can see that EPA rules finalized in the *Federal Register* under the Obama administration rose from 441 to 635 between 2009 and 2012, a 44

percent increase over Obama’s first term (see Figure 18).

In late 2010, Rep. Darrell Issa (R-Calif.) issued a request to businesses, trade groups, and think tanks, asking which rules they considered to be the most burdensome. He received more than 160 responses filled with recommendations,⁵⁶ including from the Competitive Enterprise Institute, and issued a report.⁵⁷ The Issa report noted that the EPA, more than any other agency, accounted for the regulatory burden felt by private enterprise.

Figure 18. Number of EPA Rules in the Unified Agenda and *Federal Register*, 2002–2012



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

Box 2. Dropoff in Active, Completed, and Long-Term EPA Rules in the Unified Agenda

	Total	Active	Completed	Long-Term
2011	318	175	82	61
2012	223	117	71	35

Yet there has been a substantial dropoff in the Agenda-listed EPA portion of rules over the past few years compared with finalized rules in Figure 18 (see Box 2). Overall, EPA rules in the pipeline dropped by 30 percent—from 318 to 223—whereas rules affecting small business dropped by 33 percent—from 73 to 49.

Where did all the EPA's Agenda rules go? Liberalization has not been an Obama administration priority. EPA rules have never been lower during the past decade than the 318 from 2011, as Figure 18 shows. A chunk of the EPA's active and long-term rules simply vanished in 2012. It seems the 2012 Cass Sunstein memo may have had some effect, as rules listed as long-term dropped by nearly half (43 percent), whereas active rules dropped 33 percent (see Box 2).

In reality, however, the EPA is not letting up on regulatory pursuits. An October 2012 report from Sen. James Inhofe (R-Okla.), ranking member of the Senate Committee on Environment and Public Works, details what it calls "Numerous Obama EPA Rules Placed on Hold until After the Election."⁵⁸ These rules include the following:

- Greenhouse gas regulations;
- Ozone rule;
- Hydraulic fracturing rule;
- Florida numeric nutrient criteria (water quality rules);
- Guidance documents for waters covered by the Clean Water Act;
- Stormwater regulation;
- Tier 3 gas regulations;
- Maximum achievable control technologies rules for industrial boilers and for cement;
- Power plant cooling towers rule;
- Coal ash rule;
- Farm dust regulations; and
- Spill Prevention Control and Countermeasure Rule.

Unlike in previous years, the EPA omits any explanatory narrative regarding its Regulatory Plan on its website's home page.⁵⁹ Although a Regulatory Plan narrative does appear on a different federal compilation, it is dated December 24, 2012, later than the overall federal Unified Agenda, of which this material should have been a component. It describes the agency's regulatory pursuits but does not clarify trends.⁶⁰

Liberalization has not been an Obama administration priority.

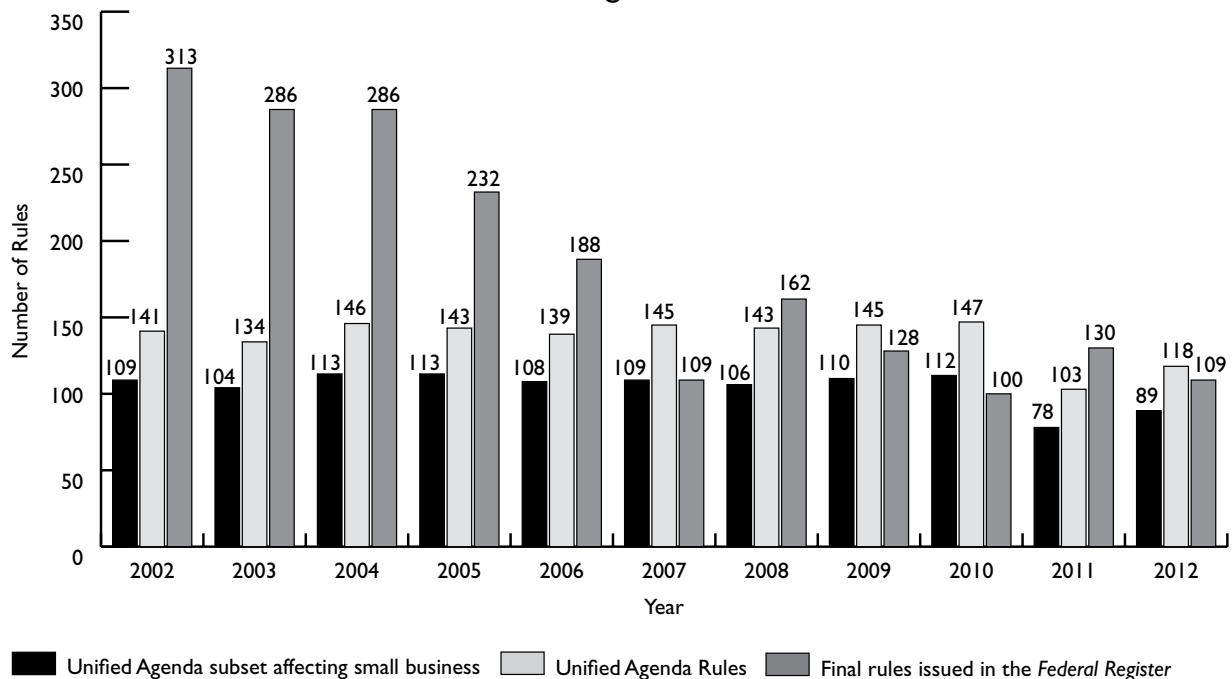
Regulation and the Federal Communications Commission

The Federal Communications Commission is by no means the heaviest regulator as determined by the number of rules issued, but it is worth singling out for review because the Commission—and its enabling statute, the Communications Act—wield great influence over a major economic sector regarded as a growth engine in today’s information economy: telecommunications and the Internet.

Although the FCC is an expensive agency, imposing an estimated \$56 billion in annual regulatory costs,⁶¹ it is surpassed in overall number of rules by nine other departments or agencies, and exceeded or matched in the

number of economically significant (\$100 million-plus) rules by eight other agencies (see Tables 3 and 5). Also, the Commission’s number of final rules in the *Federal Register* has declined drastically over the past decade (see Figure 19). The FCC issued 100 in 2010, 130 in 2011, and 109 in 2012 according to the National Archives’ online database.⁶² As of April 24, 2013, the FCC had finalized 49 rules for the year.⁶³ The FCC spent an estimated \$445 million on regulatory enforcement during FY 2012.⁶⁴ Of the 4,062 rules in the 2012 Agenda pipeline, 118, or 2.9 percent, were in the works at the FCC (Figure 19). The past two years reflect

Figure 19. Number of FCC Rules in the Unified Agenda and *Federal Register*, 2002–2012



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

a significant drop from what the Commission had reported in the Agenda during prior years. The FCC promulgated 89 FCC rules affecting small business in 2012, as Table 6 shows. The FCC's Agenda presence remained rather flat during the decade before declining over the past two years.

While the FCC has published fewer rules in the Agenda, and finalized fewer of them, than in preceding years, a pro-regulatory sentiment remains at the Commission. An agency's rule count is not all that matters, since a mere handful of rules can make an outsized impact. Despite the increasing obsolescence of the FCC's original mandate to police allegedly public airwaves characterized by scarcity, and despite massive innovations in telecommunications and in customized, consumer-oriented, user-driven multimedia, the Commission forges ahead. Yet, today's

vibrant, robust, and duplicative communications markets are not fragile mechanisms requiring fine-tuning by government bodies.⁶⁵ Nor do communications markets abuse and harass consumers in a manner requiring top-down rulemaking with respect to every new technological advance.

Nonetheless, the FCC recently has

- Considered a sweeping notice of inquiry to examine the broadband industry practices of the communications sector;⁶⁶
- Inserted itself into journalism with a "Future of Media" proceeding;⁶⁷ and
- Issued a final ruling, in December 2010, mandating "net neutrality" requirements, to the consternation of many in Congress, which has not delegated such authority to the Commission⁶⁸ (the rule is being challenged in federal court).

Box 3. Seven Economically Significant Rules in the Pipeline at the FCC

- **Broadband over power line (BPL) systems**, RIN 3060-A124: "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."
- **Amendment of the rules regarding Maritime Automatic Identification Systems** (WT Docket No. 04-344), RIN 3060-AJ16
- **Service Rules for the 698-746, 747-762, and 777-792 MHz Band Ranges**, RIN 3060-AJ35: "[O]ne of several docketed proceedings involved in the establishment of rules governing wireless licenses in the 698-806 MHz Band (the 700 MHz Band). This spectrum is being vacated by television broadcasters in TV Channels 52-69. It is being made available for wireless services, including public safety and commercial services, as a result of the digital television (DTV) transition. This docket has to do with service rules for the commercial services, and is known as the 700 MHz Commercial Services proceeding."⁵⁶
- **Universal Service Reform Mobility Fund** (WT Docket No. 10-208), RIN 3060-AJ58
- **Internet Protocol-enabled services**, RIN 3060-A148: "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."
- **Form 477; Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans**, RIN 3060-AJ15
- **Implementation of Section 224 of the Act; A National Broadband Plan for Our Future** (WC Docket No. 07-245, GN Docket No. 09-51), RIN 3060-AJ64

The FCC has held numerous hearings and workshops on these and other matters, including multicast must-carry regulation, cable à la carte, media ownership restrictions, indecency, video game violence portrayal, and wireless net neutrality.

Of the 224 economically significant rules in the works across the entire federal government, seven are from the FCC (see Table 5) and are presented in Box 3. Such rulemak-

ings—along with other FCC rules in the Agenda pipeline and the hundreds finalized each year—present opportunities for either liberalization of telecommunications or avenues for new centralized regulatory oversight and protracted legal battles. Liberalizing communications markets requires a deliberate effort to shift regulation from the FCC to the discipline of competitive markets. Today's debates seem to reflect that approach inadequately.

Liberate to Stimulate

The annual cost of regulation dwarfs the first \$787 billion economic stimulus package passed in early 2009. In contrast to fiscal stimulus, regulatory liberalization would actually help revive the U.S. economy. A *liberate to stimulate* agenda would offer some confidence and certainty for businesses of all sizes. Proposals like those described next can help achieve that goal.

Steps to Improve Regulatory Disclosure

Regulatory compliance costs estimated at \$1.8 trillion annually receive too little official scrutiny, so it is not surprising when costs exceed benefits. Although some regulations' benefits exceed costs, "net" benefits—or costs—are known for relatively few. Without any thorough regulatory accounting, estimates of overall agency net benefits are questionable, which makes it difficult to know whether society wins or loses as a result of those rules (as well as whether such social metrics have inherent problems relative to property rights-based alternatives).⁷⁰

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

Although regulatory cost disclosure should be a priority, a protracted legislative fight over comprehensive cost-benefit analysis should be avoided. For real solution, Congress should cease delegating legislative power to unelected agency personnel, by imposing institutional changes that would force elected representatives to internalize pressures to make cost-benefit assessments before issuing directives to agencies.

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

Moreover, agencies need not specify whether any or all of their economically significant or major rules cost only \$100 million—or far more than that. Instead, Congress could require agencies to break up their cost categories into tiers. Table 8 presents one alternative for assigning economically significant rules to one of five categories. Agencies could classify their rules either (a) on the basis of cost information that has been provided in the regulatory impact analyses that accompany many economically significant rules or (b) on the basis of separate internal or external estimates.

The Agenda could be made more user friendly. Useful regulatory information is available, but it is often difficult to compile.

Table 8. Possible Breakdown of “Economically Significant” Rules

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

Today, to learn about regulatory trends and to accumulate information on rules, interested citizens must comb through the Agenda’s 1,000-plus pages of small, multicolumn print or compile results from online searches and agencies’ vague Regulatory Plans. 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, in the Agenda itself, or in the *Economic Report of the President*.⁷¹

Recommended components for a regulatory transparency report card appear in Box 4. Information could be added to the report as warranted—for instance, success or failure of any special initiative, such as any “reinventing government” or regulatory reform effort. Providing five-year historical data would also enhance the Agenda’s usefulness. One of the virtues of a regulatory report card is that it would reveal more clearly what we *do not* know about the regulatory state.

Box 4. Regulatory Transparency Report Card: Recommended Official Summary Data by Program, Agency, and Grand Total, with Five-Year Historical Tables

- “Economically significant” rules by category (see Table 8) and minor rules by department, agency, and commission
- Number or percentage of rules affecting small business and state and local governments
- Number or percentage of rules featuring numerical cost estimates
- Tallies of existing cost estimates, with subtotals by agencies and with grand total
- Number or percentage of rules lacking cost estimates
- Short explanation of lack of cost estimates, where applicable
- Percentage of rules reviewed by the Office of Management and Budget and action taken
- Analysis of the *Federal Register*: number of pages, plus proposed and final rule breakdowns by agency
- Number of major rules reported on by the Government Accountability Office in its database of reports on regulations
- Rules up for 10-year review (under Section 610 of the Regulatory Flexibility Act)
- Most active rulemaking agencies
- Rules that are deregulatory rather than regulatory
- Rules that affect internal agency procedures alone
- Rollover: number of rules new to the Unified Agenda, plus number carried over from previous years
- Number or percentage of rules required by statute versus discretionary rules
- Number or percentage of rules facing statutory or judicial deadlines
- Rules for which the weighing of costs and benefits is statutorily prohibited

Agencies do not answer to voters, so the unelected continue doing a sizable bulk of U.S. lawmaking.

Detailed cost-benefit data are not necessary to begin producing a regulatory transparency 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.

Ending Regulation without Representation

Years of unbudgeted growth of the federal regulatory state merit concern when no one can claim with assurance that regulatory benefits exceed costs. But agencies are not the only culprits. Congress shirks its constitutional duty to make the tough calls. It delegates substantial lawmaking power to agencies and then fails to ensure that they deliver benefits that exceed costs.⁷² Thus, agencies can hardly be faulted for not guaranteeing optimal regulation or for not ensuring that only good rules get through.

Agencies face significant incentives to expand their turf by regulating even without demonstrated need. The primary measure of agency productivity—other than growth in their budgets and number of employees⁷³—is the body of regulations they produce.

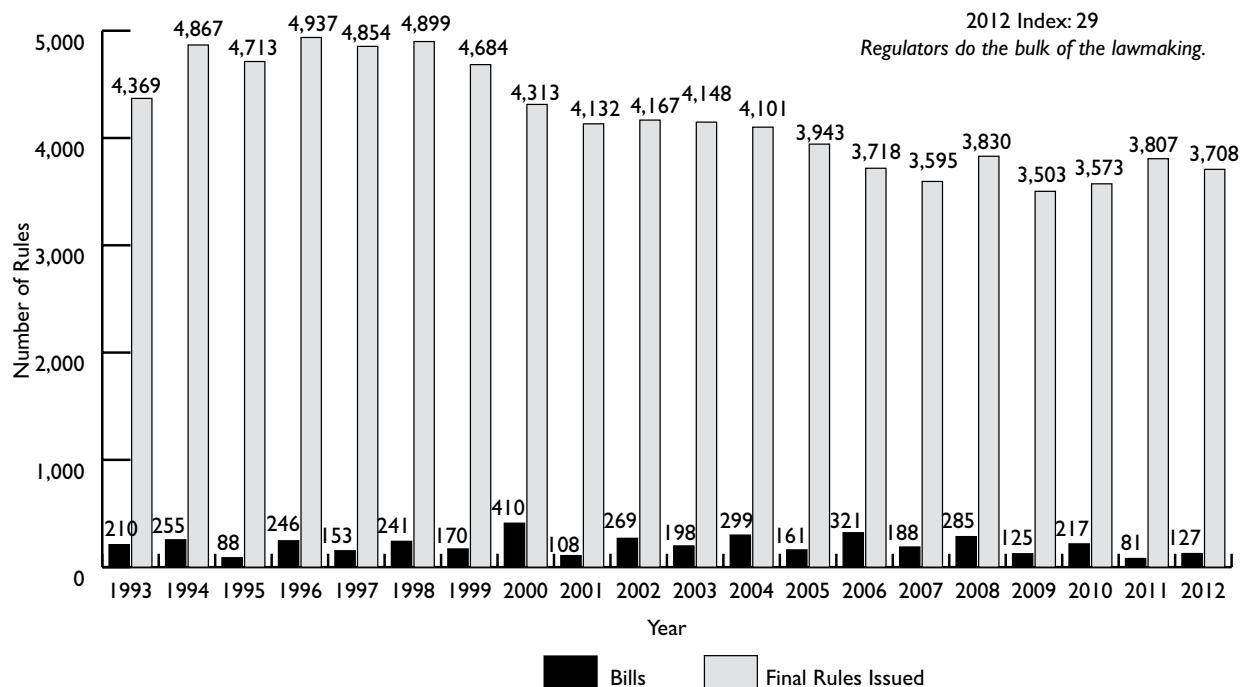
One need not exhaust time and energy blaming agencies for carrying out the very regulating they were set up to do in the first place. It would be better to point a finger at Congress. For perspective, consider that regulatory agencies issued 3,708 final rules, whereas the 112th Congress passed and President Obama signed into law a comparatively few 127 bills in calendar year 2012.⁷⁴ (The total number of laws for the 112th Congress was 208.)⁷⁵ Box 5 shows the multiple of rules issued over the number of public laws passed since 2003—the Anti-Democracy Index—and Figure 20 presents this index in graphic form. The index for 2012 is 29; in 2011, there were 47 times as many rules as laws.

As noted, regulatory agencies are now at work on 4,062 rules according to the fall 2012 Agenda. Agencies do not answer to voters, so the unelected continue doing a sizable bulk of U.S. lawmaking. An annual regulatory transparency report card is a start but not a complete answer. Regulatory reforms that rely on agencies' policing themselves will not rein in the regulatory state. Rather, making Congress directly answerable to voters for the costs that agencies impose on the public would best promote accountable regulation. Congress should vote on agencies' final rules before such rules become binding on the public.

Box 5. The Anti-Democracy Index Public Laws vs. Agency Rulemakings

Year	Bills	Final Rules Issued	Multiple
2003	198	4,148	21
2004	299	4,101	14
2005	161	3,943	24
2006	321	3,718	12
2007	188	3,595	19
2008	285	3,830	13
2009	125	3,503	28
2010	217	3,573	16
2011	81	3,807	47
2012	127	3,708	29

Figure 20. The Anti-Democracy Index: Rules as Multiples of Public Laws Enacted, 1993–2012



Sources: Federal Register data from National Archives and Records Administration and from Wayne Crews' tabulation at tenthousandcommandments.com. Public Laws data compiled by Wayne Crews from Government Printing Office, Public and Private Laws at http://frwebgate.access.gpo.gov/cgi-bin/browse?DB=112_cong_public_laws&template=plaws.tpl&sortoption=alphabetical; and from National Archives, Previous Sessions: Public Law Numbers, <http://www.archives.gov/federal-register/laws/past/index.html>.

Increasing congressional accountability for regulatory costs is an urgent priority in today's era of deficits. Concern about mounting national debt invites Congress to regulate rather than to increase government spending to accomplish policy ends. For example, suppose Congress wanted to create a job-training program. Funding the program would require approval of a new appropriation for the Department of Labor, which would appear in the federal budget—and increase the deficit. Instead, Congress could simply pass a law requiring Fortune 500 companies to fund job training, to be carried out through new regulations issued by the Department of Labor. The latter option would add little to federal spending but would still let Congress take credit for the program. By regulating instead of spending, government can expand almost indefinitely without explicitly taxing anybody one extra penny.

Affirmation of new regulations would ensure that Congress bore direct responsibility for every dollar of new regulatory costs and is a prerequisite for controlling the off-budget regulatory state. 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 vote.

Whatever improvements in disclosure might be made, congressional rather than agency approval of both regulations and regulatory costs should be the goal of regulatory reform. When Congress ensures transparency and disclosure and finally assumes responsibility for the growth of the regulatory state, the resulting system will be one that is fairer and more accountable to voters.

Appendix of Historical Tables

Part A. *Federal Register* Page History, 1936–2011

Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count
1936	2,620	n/a	2,620
1937	3,450	n/a	3,450
1938	3,194	n/a	3,194
1939	5,007	n/a	5,007
1940	5,307	n/a	5,307
1941	6,877	n/a	6,877
1942	11,134	n/a	11,134
1943	17,553	n/a	17,553
1944	15,194	n/a	15,194
1945	15,508	n/a	15,508
1946	14,736	n/a	14,736
1947	8,902	n/a	8,902
1948	9,608	n/a	9,608
1949	7,952	n/a	7,952
1950	9,562	n/a	9,562
1951	13,175	n/a	13,175
1952	11,896	n/a	11,896
1953	8,912	n/a	8,912
1954	9,910	n/a	9,910
1955	10,196	n/a	10,196
1956	10,528	n/a	10,528
1957	11,156	n/a	11,156
1958	10,579	n/a	10,579
1959	11,116	n/a	11,116
1960	14,479	n/a	14,479
1961	12,792	n/a	12,792
1962	13,226	n/a	13,226
1963	14,842	n/a	14,842
1964	19,304	n/a	19,304
1965	17,206	n/a	17,206
1966	16,850	n/a	16,850
1967	21,088	n/a	21,088

Year	Unadjusted Page Count	Jumps/Blanks	Adjusted Page Count
1968	20,072	n/a	20,072
1969	20,466	n/a	20,466
1970	20,036	n/a	20,036
1971	25,447	n/a	25,447
1972	28,924	n/a	28,924
1973	35,592	n/a	35,592
1974	45,422	n/a	45,422
1975	60,221	n/a	60,221
1976	57,072	6,567	50,505
1977	65,603	7,816	57,787
1978	61,261	5,565	55,696
1979	77,498	6,307	71,191
1980	87,012	13,754	73,258
1981	63,554	5,818	57,736
1982	58,494	5,390	53,104
1983	57,704	4,686	53,018
1984	50,998	2,355	48,643
1985	53,480	2,978	50,502
1986	47,418	2,606	44,812
1987	49,654	2,621	47,033
1988	53,376	2,760	50,616
1989	53,842	3,341	50,501
1990	53,620	3,825	49,795
1991	67,716	9,743	57,973
1992	62,928	5,925	57,003
1993	69,688	8,522	61,166
1994	68,108	3,194	64,914
1995	67,518	4,873	62,645
1996	69,368	4,777	64,591
1997	68,530	3,981	64,549
1998	72,356	3,785	68,571
1999	73,880	2,719	71,161
2000	83,294	9,036	74,258
2001	67,702	3,264	64,438
2002	80,332	4,726	75,606
2003	75,798	4,529	71,269
2004	78,852	3,177	75,675
2005	77,777	3,907	73,870
2006	78,724	3,787	74,937
2007	74,408	2,318	72,090
2008	80,700	1,265	79,435
2009	69,644	1,046	68,598
2010	82,480	1,075	81,405
2011	82,415	1,168	81,247
2012	80,050	1,089	78,961

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

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

Part B. Number of Documents in the *Federal Register*, 1976–2012

Year	Final Rules	Proposed Rules	Other*	Total
1976	7,401	3,875	27,223	38,499
1977	7,031	4,188	28,381	39,600
1978	7,001	4,550	28,705	40,256
1979	7,611	5,824	29,211	42,646
1980	7,745	5,347	33,670	46,762
1981	6,481	3,862	30,090	40,433
1982	6,288	3,729	28,621	38,638
1983	6,049	3,907	27,580	37,536
1984	5,154	3,350	26,047	34,551
1985	4,843	3,381	22,833	31,057
1986	4,589	3,185	21,546	29,320
1987	4,581	3,423	22,052	30,056
1988	4,697	3,240	22,047	29,984
1989	4,714	3,194	22,218	30,126
1990	4,334	3,041	22,999	30,374
1991	4,416	3,099	23,427	30,942
1992	4,155	3,170	24,063	31,388
1993	4,369	3,207	24,017	31,593
1994	4,867	3,372	23,669	31,908
1995	4,713	3,339	23,133	31,185
1996	4,937	3,208	24,485	32,630
1997	4,584	2,881	26,260	33,725
1998	4,899	3,042	26,313	34,254
1999	4,684	3,281	26,074	34,039
2000	4,313	2,636	24,976	31,925
2001	4,132	2,512	25,392	32,036
2002	4,167	2,635	26,250	33,052
2003	4,148	2,538	25,168	31,854
2004	4,101	2,430	25,846	32,377
2005	3,943	2,257	26,020	32,220
2006	3,718	2,346	25,429	31,493
2007	3,595	2,308	24,784	30,687
2008	3,830	2,475	25,574	31,879
2009	3,503	2,044	25,218	30,765
2010	3,573	2,439	26,543	32,555
2011	3,807	2,898	26,296	33,001
2012	3,708	2,517	24,755	30,980

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

Part C. Code of Federal Regulations Page Counts and Number of Volumes, 1975–2012

Year	Actual Pages Published (includes text, preliminary pages, and tables)				Unrevised CFR Volumes**	Total Pages Complete CFR	Total CFR Volumes (excluding Index)
	Titles 1–50 (minus Title 3)	Title 3 (POTUS Docs)	Index*	Total Pages Published			
1975	69,704	296	792	70,792	432	71,224	133
1976	71,289	326	693	72,308	432	72,740	139
1977	83,425	288	584	84,297	432	84,729	141
1978	88,562	301	660	89,523	4,628	94,151	142
1979	93,144	438	990	94,572	3,460	98,032	148
1980	95,043	640	1,972	97,655	4,640	102,295	164
1981	103,699	442	1,808	105,949	1,160	107,109	180
1982	102,708	328	920	103,956	982	104,938	177
1983	102,892	354	960	104,206	1,448	105,654	178
1984	110,039	324	998	111,361	469	111,830	186
1985	102,815	336	1,054	104,205	1,730	105,935	175
1986	105,973	512	1,002	107,487	1,922	109,409	175
1987	112,007	374	1,034	113,415	922	114,337	185
1988	114,634	408	1,060	116,102	1,378	117,480	193
1989	118,586	752	1,058	120,396	1,694	122,090	196
1990	121,837	376	1,098	123,311	3,582	126,893	199
1991	119,969	478	1,106	121,553	3,778	125,331	199
1992	124,026	559	1,122	125,707	2,637	128,344	199
1993	129,162	498	1,141	130,801	1,427	132,228	202
1994	129,987	936	1,094	132,017	2,179	134,196	202
1995	134,471	1170	1,068	136,709	1,477	138,186	205
1996	129,386	622	1,033	131,041	1,071	132,112	204
1997	128,672	429	1,011	130,112	948	131,060	200
1998	132,884	417	1,015	134,316	811	135,127	201
1999	130,457	401	1,022	131,880	3,052	134,932	202
2000	133,208	407	1,019	134,634	3,415	138,049	202
2001	134,582	483	1,041	136,106	5,175	141,281	206
2002	137,373	1114	1,039	139,526	5,573	145,099	207
2003	139,550	421	1,053	141,024	3,153	144,177	214
2004	143,750	447	1,073	145,270	2,369	147,639	217
2005	146,422	103	1,083	147,608	4,365	151,973	221
2006	149,594	376	1,077	151,047	3,060	154,107	222
2007	149,236	428	1,088	150,752	5,258	156,010	222
2008	151,547	453	1,101	153,101	4,873	157,974	222
2009	158,369	412	1,112	159,893	3,440	163,333	225
2010	152,455	512	1,122	154,089	11,405	165,494	226
2011	159,129	486	1,142	160,757	8,544	169,301	230
2012	164,884	472	1,142	166,498	8,047	174,545	238

Source: Chart from National Archives and Records Administration, Office of the Federal Register. *General Index and Finding Aids volume for 1975 and 1976. ** Unrevised CFR volumes page totals include those previous editions for which a cover only was issued during the year or any previous editions for which a supplement was issued.

Part D. Unified Agenda Rules History, 1983–2012

Total Number of Rules Under Consideration or Enacted

1980s			1990s			2000s		
1983	April	2,863	1990	April	4,332	2000	October	4,699
	October	4,032		October	4,470	2001	October	4,509
1984	April	4,114	1991	April	4,675	2002	October	4,187
	October	4,016		October	4,863	2003	December	4,266
1985	April	4,265	1992	April	4,186	2004	December	4,083
	October	4,131		October	4,909	2005	October	4,062
1986	April	3,961	1993	April	4,933	2006	December	4,052
	October	3,983		October	4,950	2007	December	3,882
1987	April	4,038	1994	April	5,105	2008	December	4,004
	October	4,005		October	5,119	2009	December	4,043
1988	April	3,941	1995	April	5,133	2010	December	4,225
	October	4,017		October	4,735	2011	December	4,128
1989	April	4,003	1996	April	4,570	2012	Year-End*	4,062
	October	4,187		October	4,680			
			1997	April	4,417	Sources: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," <i>Federal Register</i> , various years' editions; and from online edition at http://www.reginfo.gov . *Spring edition skipped in 2012.		
				October	4,407			
			1998	April	4,504			
				October	4,560			
			1999	April	4,524			
				October	4,568			

Part E. Agenda Rules History by Department and Agency, 1999–2011

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
Advisory Council on Historic Preservation				0	0	0		1	1	1	0	1	1
Agency for International Development	14	14	12	7	10	8	10	8	8	7	6	6	5
Architectural and Transportation Barriers Compliance Board	8	7	6	5	5	4	3	4	4	5	5	7	8
Commission on Civil Rights	1	1	1	2	1	1	1	1	1	1	1	1	1
Commodity Futures Trading Commission	68	56	32	25	19	14	11	15	15	19	30	21	19
Consumer Product Safety Commission	38	51	39	31	19	24	18	18	20	20	21	20	17
Corporation for National and Community Service	13	10	7	7	9	11	11	8	9	16	9	6	4
Court Services/Offender Supervision, D.C.	3	2	2	2	2	1	1	1	3	7	5	0	0
CPBSD*	3	3	3	3	5	6	6	5	0	0	0	0	0
Department of Agriculture	265	287	327	374	290	311	292	279	323	314	312	327	345
Department of Commerce	328	296	300	325	303	302	296	273	300	270	342	390	366
Department of Defense	140	150	133	109	131	143	163	126	108	87	93	117	121
Department of Education	18	23	22	17	13	16	9	11	13	14	8	21	32
Department of Energy	96	96	85	54	47	63	61	50	66	53	61	67	64
Department of Health and Human Services	251	312	231	236	259	257	249	233	219	219	277	308	300
Department of Homeland Security	232	230	237	252	267	280	295	314	338				
Department of Housing and Urban Development	65	65	60	73	86	92	90	103	109	100	89	113	128
Department of the Interior	325	259	277	287	264	305	303	287	295	298	423	418	309
Department of Justice	120	137	121	138	140	139	124	125	122	249	229	202	201
Department of Labor	90	99	104	96	94	93	93	88	89	102	141	156	151
Department of State	35	30	18	27	28	28	24	21	15	41	32	21	27
Department of Transportation	224	223	230	200	199	215	227	301	365	543	511	536	539
Department of the Treasury	497	580	528	521	545	501	514	532	530	513	458	450	400
Department of Veterans Affairs	82	81	78	80	65	77	76	79	87	104	164	141	130
Environmental Protection Agency	318	345	331	330	336	372	400	416	417	409	416	449	456
Equal Employment Opportunity Commission	7	7	7	5	7	8	6	3	4	4	3	6	9
Farm Credit Administration	25	23	25	19	12	19	20	20	21	14	17	17	19
Farm Credit System Insurance Corporation	25		1	1	0	1	1	1	1	1	1	3	3
Federal Acquisition Regulation	51	85	55	44	36	42	44	45	49	43	48	56	49
Federal Communications Commission	103	147	145	143	145	139	143	146	134	141	145	137	128
Federal Council on the Arts and Humanities				1									
Federal Deposit Insurance Corporation	21	21	21	19	18	24	16	20	17	17	22	26	25
Federal Emergency Management Agency				0	0	0	0	0	0	24	30	26	33
Federal Energy Regulatory Commission	41	36	37	39	41	47	35	23	21	19	8	18	20
Federal Housing Finance Agency	25	27	30	10	3	8	8	9	11	9	12	12	18
Federal Housing Finance Board				3									
Federal Maritime Commission	8	4	6	3	4	3	5	7	11	8	7	9	9
Federal Mediation and Conciliation Service	1	2	2	2	1	1	2	2	3	4	3	2	1
Federal Reserve System	29	22	26	18	20	13	17	18	18	24	32	33	22
Federal Trade Commission	24	19	20	17	14	16	15	14	12	10	13	14	16
General Services Administration	29	34	49	54	26	34	33	27	37	40	35	40	51

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

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
Institute of Museum and Library Services	1	2	1	2	1	1	4	3	6	5	5	4	1
National Aeronautics and Space Administration	46	26	32	19	11	15	20	27	34	13	17	11	7
National Archives and Records Administration	4	9	7	10	15	21	17	22	19	20	19	21	21
National Credit Union Administration	28	24	24	22	24	29	27	26	27	20	22	16	26
National Endowment for the Arts			2	3	2	2	2	2	6	5	5	5	5
National Endowment for the Humanities	5	4	3	3	3	3	3	3	8	9	8	7	6
National Indian Gaming Commission	15	9	17	18	19	16	15	14	14	16	15	14	14
National Science Foundation	3	2	3	3	0	2	3	3	2	2	3	5	4
Nuclear Regulatory Commission	64	63	61	54	53	45	49	42	45	39	42	55	57
Office of Federal Housing Enterprise Oversight				10	9	8	6	4	4	7	9	5	5
Office of Government Ethics	5	7	7	6	9	8	7	7	9	10	11	11	12
Office of Management and Budget	8	7	7	2	1	2	2	3	4	4	5	5	9
Office of Personnel Management	87	77	77	80	75	93	94	103	90	72	91	110	112
Office of Special Counsel				0	0	0	0	0	0	0	0	3	2
Panama Canal Commission					0	0	0	0	0	0	0	0	4
Peace Corps	5	1	1	7	6	6	5	4	9	9	9	8	5
Pension Benefit Guaranty Corporation	12	10	10	12	12	13	9	6	4	6	11	10	12
Postal Regulatory Commission	1	3	2	2	3	0	0	0	0	0	0	0	0
Presidio Trust				0	0	0	2	2	1	2	2	3	3
Privacy and Civil Liberties Oversight Board				0	1	0	0	0	0	0	0	0	0
Railroad Retirement Board	1	1	1	3	2	6	5	6	11	13	13	19	16
Recovery Accountability and Transparency Board		1	3										
Securities and Exchange Commission	107	75	74	72	76	71	64	79	71	73	80	77	80
Selective Service System	1	1	1	1	1	1	1	1	1	1	1	1	1
Small Business Administration	48	51	39	26	28	32	34	29	33	40	37	41	35
Social Security Administration	53	63	58	64	63	53	68	59	64	63	85	82	67
Surface Transportation Board	11	5	5	6	4	7	3	4	5	5	4	3	3
Tennessee Valley Authority				0	0	0	0	0	2	2	3	3	1
Udall Institute for Environmental Conflict Resolution				0	0	0	0	0	1	1	3	3	3
TOTAL	4,128	4,225	4,043	4,004	3,882	4,052	4,062	4,083	4,266	4,187	4,509	4,699	4,538

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

Part F. Listing of 224 "Economically Significant" Rules, Year-End 2012

From the Regulatory Plan (40 Active Actions)

Department of Agriculture

1. USDA/FSIS, Proposed Rule Stage, Egg Products Inspection Regulations, 0583-AC58

2. USDA/FSIS, Final Rule Stage, Modernization of Poultry Slaughter Inspection, 0583-AD32
3. USDA/FNS, Proposed Rule Stage, National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010, 0584-AE09

4. USDA/FNS, Final Rule Stage, Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008, 0584-AD87
5. USDA/FNS, Final Rule Stage, Supplemental Nutrition Assistance Program: Nutrition Education and Obesity Prevention Grant, 0584-AE07

Department of Defense

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

Department of Education

8. ED/OPE, Proposed Rule Stage, Transitioning from the FFEL Program to the Direct Loan Program and Loan Rehabilitation under the FFEL, Direct Loan, and Perkins Loan Programs, 1840-AD12

Department of Energy

9. DOE/EE, Proposed Rule Stage, Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers, 1904-AB86
10. DOE/EE, Final Rule Stage, Energy Efficiency Standards for Battery Chargers and External Power Supplies, 1904-AB57
11. DOE/EE, Final Rule Stage, Energy Efficiency Standards for Distribution Transformers, 1904-AC04

Department of Health and Human Services

12. HHS/FDA, Proposed Rule Stage, Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Food for Animals, 0910-AG10
13. HHS/FDA, Proposed Rule Stage, Produce Safety Regulation, 0910-AG35
14. HHS/FDA, Proposed Rule Stage, Hazard Analysis and Risk-Based Preventive Controls, 0910-AG36
15. HHS/FDA, Final Rule Stage, Unique Device Identification, 0910-AG31
16. HHS/FDA, Final Rule Stage, Food Labeling: Nutrition Labeling for Food Sold in Vending Machines, 0910-AG56
17. HHS/FDA, Final Rule Stage, Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments, 0910-AG57
18. HHS/CMS, Proposed Rule Stage, Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation (CMS-9980-F), 0938-AR03

19. HHS/CMS, Proposed Rule Stage, Part II—Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS-3267-P), 0938-AR49
20. HHS/CMS, Proposed Rule Stage, Notice of Benefit and Payment Parameters (CMS-9964-P), 0938-AR51
21. HHS/CMS, Proposed Rule Stage, Changes to the Hospital Inpatient and Long-Term Care Prospective Payment System for FY 2014 (CMS-1599-P), 0938-AR53
22. HHS/CMS, Proposed Rule Stage, Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2014 (CMS-1601-P), 0938-AR54
23. HHS/CMS, Proposed Rule Stage, Revisions to Payment Policies under the Physician Fee Schedule and Medicare Part B for CY 2014 (CMS-1600-P), 0938-AR56
24. HHS/CMS, Proposed Rule Stage, Prospective Payment System for Federally Qualified Health Centers (FQHCs) (CMS-1443-P), 0938-AR62

Department of Homeland Security

25. DHS/USCIS, Final Rule Stage, Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives, 1615-AB99
26. DHS/USCBP, Final Rule Stage, Changes to the Visa Waiver Program to Implement the Electronic System for Travel Authorization (ESTA) Program, 1651-AA72
27. DHS/TSA, Proposed Rule Stage, Security Training for Surface Mode Employees, 1652-AA55
28. DHS/TSA, Proposed Rule Stage, Standardized Vetting, Adjudication, and Redress Services, 1652-AA61
29. DHS/TSA, Proposed Rule Stage, Passenger Screening Using Advanced Imaging Technology, 1652-AA67

Department of Justice

30. DOJ/CRT, Proposed Rule Stage, Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments, 1190-AA65

Environmental Protection Agency

31. EPA/WATER, Proposed Rule Stage, Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 2040-AF14
32. EPA/WATER, Proposed Rule Stage, National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions, 2040-AF15
33. EPA/WATER, Final Rule Stage, Criteria and Standards for Cooling Water Intake Structures, 2040-AE95

- 34. EPA/AR, Proposed Rule Stage, Review of the National Ambient Air Quality Standards for Ozone, 2060-AP38
- 35. EPA/AR, Proposed Rule Stage, Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards, 2060-AQ86
- 36. EPA/OCSP, Proposed Rule Stage, Formaldehyde Emissions Standards for Composite Wood Products, 2070-AJ92

Architectural and Transportation Barriers Compliance Board

- 37. ATBCB, Proposed Rule Stage, Americans with Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels, 3014-AA11

Nuclear Regulatory Commission

- 38. NRC, Proposed Rule Stage, Revision of Fee Schedules: Fee Recovery for FY 2013 (NRC-2012-0211), 3150-AJ19
- 39. NRC, Final Rule Stage, Physical Protection of Byproduct Material (NRC-2008-0120), 3150-AI12
- 40. NRC, Final Rule Stage, Domestic Licensing of Source Material—Amendments/Integrated Safety Analysis (NRC-2009-0079), 3150-AI50

**From the Regulatory Plan
(2 Completed Actions)**

Department of Labor

- 41. DOL/ETA, Labor Certification Process and Enforcement for Temporary Employment in Occupations Other than Agriculture or Registered Nursing in the United States (H-2B Workers), 1205-AB58
- 42. DOL/OSHA, Hazard Communication, 1218-AC20

**From the Regulatory Plan
(1 Long-Term Action)**

Department of Justice

- 43. DOJ/CRT, Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of Public Accommodations, 1190-AA61

From the Unified Agenda (96 Active Actions)

Department of Agriculture

- 44. USDA/RBS, Proposed Rule Stage, Rural Energy for America Program, 0570-AA76

- 45. USDA/RBS, Final Rule Stage, Biorefinery Assistance Program, 0570-AA73
- 46. USDA/RBS, Final Rule Stage, Bioenergy Program for Advanced Biofuels, 0570-AA75
- 47. USDA/RUS, Final Rule Stage, Rural Broadband Access Loans and Loan Guarantees, 0572-AC06
- 48. USDA/RUS, Final Rule Stage, Energy Efficiency Program Loans, 0572-AC19
- 49. USDA/RHS, Proposed Rule Stage, Citizenship Implementation, 0575-AC86
- 50. USDA/RHS, Final Rule Stage Multi-Family Housing (MFH) Reinvention, 0575-AC13
- 51. USDA/AMS, Final Rule Stage, National Organic Program: Sunset Review for Nutrient Vitamins and Minerals, 0581-AD17
- 52. USDA/FSIS, Proposed Rule Stage, Performance Standards for the Production of Processed Meat and Poultry Products, 0583-AC46
- 53. USDA/FNS, Final Rule Stage, Supplemental Nutrition Assistance Program: Farm Bill of 2008 Retailer Sanctions, 0584-AD88
- 54. USDA/FNS, Final Rule Stage, Fresh Fruit and Vegetable Program, 0584-AD96
- 55. USDA/FNS, Final Rule Stage, National School Lunch and School Breakfast Programs: School Food Service Account Revenue Amendments Related to the Healthy, Hunger-Free Kids Act of 2010, 0584-AE11
- 56. USDA/FNS, Final Rule Stage, Certification of Compliance with Meal Requirements for the National School Lunch Program under the Healthy, Hunger-Free Kids Act of 2010, 0584-AE15

Department of Commerce

- 57. DOC/NOAA, Proposed Rule Stage, Reduce the Threat of Ship Collisions with North Atlantic Right Whales, 0648-BB20
- 58. DOC/NOAA, Proposed Rule Stage, Taking Marine Mammals Incidental to Conducting Geological and Geophysical Exploration of Mineral and Energy Resources on the Outer Continental Shelf in the Gulf of Mexico, 0648-BB38
- 59. DOC/PTO, Final Rule Stage, Setting and Adjusting Patent Fees, 0651-AC54

Department of Education

- 60. ED/OPE, Final Rule Stage, Federal Pell Grant Program, 1840-AD11
- 61. ED/OII, Proposed Rule Stage, Investing in Innovation, 1855-AA09

Department of Energy

62. DOE/ENDEP, Final Rule Stage, Advanced Technology Vehicles Manufacturing Incentive Program, 1901-AB25
63. DOE/EE, Prerule Stage, Energy Efficiency Standards for Residential Dehumidifiers, 1904-AC81
64. DOE/EE, Proposed Rule Stage, Energy Conservation Standards for Commercial Refrigeration Equipment, 1904-AC19
65. DOE/EE, Proposed Rule Stage, Energy Conservation Standards for Residential Furnace Fans, 1904-AC22
66. DOE/EE, Proposed Rule Stage, Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors, 1904-AC28

Department of Health and Human Services

67. HHS/FDA, Proposed Rule Stage, Food Labeling; Revision of the Nutrition and Supplement Facts Labels, 0910-AF22
68. HHS/FDA, Proposed Rule Stage, Food Labeling: Serving Sizes of Foods that Can Reasonably Be Consumed in One Eating Occasion; Dual Column Labeling; and Modifying the Reference Amounts Customarily Consumed, 0910-AF23
69. HHS/FDA, Proposed Rule Stage, Over-the-Counter (OTC) Drug Review—Internal Analgesic Products 2012, 0910-AF36
70. HHS/FDA, Proposed Rule Stage, Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products, 0910-AF69
71. HHS/FDA, Proposed Rule Stage, Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products, 0910-AG12
72. HHS/FDA, Proposed Rule Stage, Electronic Distribution of Prescribing Information for Human Drugs Including Biological Products, 0910-AG18
73. HHS/FDA, Proposed Rule Stage, “Tobacco Products” Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act, 0910-AG38
74. HHS/FDA, Proposed Rule Stage, General Hospital and Personal Use Devices: Issuance of Draft Special Controls Guidance for Infusion Pumps, 0910-AG54
75. HHS/FDA, Proposed Rule Stage, Amendments to the Current Good Manufacturing Practice Regulations for Finished Pharmaceuticals—Components, 0910-AG70
76. HHS/CDC, Final Rule Stage, World Trade Center Health Program Requirements for Enrollment, Appeals, Certification of Health Conditions, and Reimbursement, 0920-AA44
77. HHS/CMS, Proposed Rule Stage, Emergency Preparedness Requirements for Medicare Participating Providers and Suppliers (CMS-3178-P), 0938-AO91
78. HHS/CMS, Proposed Rule Stage, Administrative Simplification: Compliance: Health Plan Certification (CMS-0037-P), 0938-AQ85
79. HHS/CMS, Proposed Rule Stage, Medicaid, Exchanges, and Children’s Health Insurance Programs: Eligibility, Appeals, and Other Provisions under the Affordable Care Act, 0938-AR04
80. HHS/CMS, Proposed Rule Stage, Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2015 (CMS-4159-P), 0938-AR37
81. HHS/CMS, Proposed Rule Stage, Home Health Prospective Payment System Rate for CY 2014 (CMS-1450-P), 0938-AR52
82. HHS/CMS, Proposed Rule Stage, Changes to the End-Stage Renal Disease Prospective Payment System for CY 2014 (CMS-1526-P), 0938-AR55
83. HHS/CMS, Proposed Rule Stage, Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2014 (CMS-1446-P), 0938-AR65
84. HHS/CMS, Proposed Rule Stage, Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2014 (CMS-1448-P), 0938-AR66
85. HHS/CMS, Proposed Rule Stage, Medicare Advantage (MA) and Prescription Drug Benefit Programs: Medical Loss Ratio Requirements (CMS-4173-P), 0938-AR69
86. HHS/CMS, Proposed Rule Stage, Patient Status and Parts A and B Rebilling in Hospitals (CMS-1455-P), 0938-AR73
87. HHS/CMS, Final Rule Stage, Home and Community-Based State Plan Services Program and Provider Payment Reassignments (CMS-2249-F), 0938-AO53
88. HHS/CMS, Final Rule Stage, Face-to-Face Requirements for Home Health Services; Policy Changes and Clarifications Related to Home Health (CMS-2348-F), 0938-AQ36
89. HHS/CMS, Final Rule Stage, Covered Outpatient Drugs (CMS-2345-F), 0938-AQ41
90. HHS/CMS, Final Rule Stage, Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for CY 2013 (CMS-8046-N), 0938-AR14
91. HHS/CMS, Final Rule Stage, CY 2014 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts (CMS-8053-N), 0938-AR59

92. HHS/OCR, Final Rule Stage, Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules, 0945-AA03

Department of Homeland Security

93. DHS/USCG, Proposed Rule Stage, Updates to Maritime Security, 1625-AB38
94. DHS/USCG, Final Rule Stage, Commercial Fishing Industry Vessels, 1625-AA77
95. DHS/USCG, Final Rule Stage, Commercial Fishing Vessels—Implementation of 2010 Legislation, 1625-AB85
96. DHS/USCBP, Final Rule Stage, Importer Security Filing and Additional Carrier Requirements, 1651-AA70
97. DHS/USCBP, Final Rule Stage, Electronic System for Travel Authorization (ESTA): Fee for Use of the System, 1651-AA83
98. DHS/TSA, Proposed Rule Stage, General Aviation Security and Other Aircraft Operator Security, 1652-AA53

Department of Housing and Urban Development

99. HUD/CPD, Final Rule Stage, Housing Trust Fund (FR-5405), 2506-AC30

Department of the Interior

100. DOI/FWS, Proposed Rule Stage, Migratory Bird Hunting; 2013–2014 Migratory Game Bird Hunting Regulations, 1018-AY87

Department of Justice

101. DOJ/DEA, Final Rule Stage, Retail Sales of Scheduled Listed Products; Chemical; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products, 1117-AB05

Department of Labor

102. DOL/EBSA, Proposed Rule Stage, Definition of “Fiduciary,” 1210-AB32
103. DOL/EBSA, Proposed Rule Stage, Group Health Plans and Health Insurance Issuers Relating to Coverage of Preventive Services under the Patient Protection and Affordable Care Act, 1210-AB44
104. DOL/EBSA, Proposed Rule Stage, Guide or Similar Requirement for Section 408(b)(2) Disclosure, 1210-AB53
105. DOL/OSHA, Prerule Stage, Combustible Dust, 1218-AC41
106. DOL/OSHA, Prerule Stage, Infectious Diseases, 1218-AC46

107. DOL/OSHA, Prerule Stage, Injury and Illness Prevention Program, 1218-AC48
108. DOL/OSHA, Proposed Rule Stage, Occupational Exposure to Crystalline Silica, 1218-AB70
109. DOL/OSHA, Proposed Rule Stage, Occupational Exposure to Beryllium, 1218-AB76
110. DOL/OSHA, Final Rule Stage, Electric Power Transmission and Distribution; Electrical Protective Equipment, 1218-AB67
111. DOL/OSHA, Final Rule Stage, Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention), 1218-AB80
112. DOL/WHD, Final Rule Stage, Application of the Fair Labor Standards Act to Domestic Service, 1235-AA05

Department of Transportation

113. DOT/FMCSA, Proposed Rule Stage, Carrier Safety Fitness Determination, 2126-AB11
114. DOT/FMCSA, Proposed Rule Stage, Commercial Driver’s License Drug and Alcohol Clearinghouse, 2126-AB18
115. DOT/FMCSA, Proposed Rule Stage, Electronic Logging Devices and Hours of Service Supporting Documents, 2126-AB20
116. DOT/FMCSA, Proposed Rule Stage, Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR), 2126-AB46
117. DOT/NHTSA, Proposed Rule Stage, Heavy Vehicle Speed Limiters, 2127-AK92
118. DOT/NHTSA, Proposed Rule Stage, Sound for Hybrid and Electric Vehicles, 2127-AK93
119. DOT/NHTSA, Final Rule Stage, Federal Motor Vehicle Safety Standard No. 111, Rearview Mirrors 2012, 2127-AK43
120. DOT/NHTSA, Final Rule Stage, Require Installation of Seat Belts on Motorcoaches, Federal Motor Vehicle Safety Standard No. 208, 2127-AK56
121. DOT/NHTSA, Final Rule Stage, Electronic Stability Control Systems for Heavy Vehicles, 2127-AK97
122. DOT/FTA, Final Rule Stage, Major Capital Investment Projects (RRR), 2132-AB02

Department of the Treasury

123. TREAS/DO, Proposed Rule Stage, Restore Act Program, 1505-AC44
124. TREAS/DO, Final Rule Stage, Assessment of Fees for Large Bank Holding Companies and Nonbank Financial Companies Supervised by the Federal Reserve to Cover the Expenses of the Financial Research Fund, 1505-AC42

- 125. TREAS/OCC, Final Rule Stage, Strengthening Tier 1 Capital Other Capital Enhancements, Standardized Approach (Basel III), 1557-AD46
- 126. TREAS/CDFIF, Final Rule Stage, Interim Rule for the CDFI Bond Guarantee Program, 1559-AA01

Department of Veterans Affairs

- 127. VA, Proposed Rule Stage, Disabled Veterans Experiencing Difficulties Using Prosthetic Devices, Veterans Needing a Higher Level of Aid and Attendance for Traumatic Brain Injury, and Definition of Catastrophic Disability, 2900-AO16
- 128. VA, Final Rule Stage, Post-9/11 Improvements, Fry Scholarship, and Work-Study, 2900-AO07
- 129. VA, Final Rule Stage, Veterans Retraining Assistance Program (VRAP), 2900-AO40
- 130. VA, Final Rule Stage, Caregivers Program, 2900-AN94

Environmental Protection Agency

- 131. EPA/WATER, Proposed Rule Stage, Stormwater Regulations Revision to Address Discharges from Developed Sites, 2040-AF13
- 132. EPA/SWER, Final Rule Stage, Revising Underground Storage Tank Regulations—Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training, 2050-AG46
- 133. EPA/AR, Proposed Rule Stage, Revision of New Source Performance Standards for New Residential Wood Heaters, 2060-AP93
- 134. EPA/AR, Final Rule Stage, Reconsideration of Final National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines, 2060-AQ58
- 135. EPA/OCSPP, Prerule Stage, Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings, 2070-AJ56

Federal Deposit Insurance Corporation

- 136. FDIC, Final Rule Stage, Regulatory Capital Rules (Part I): Regulatory Capital, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, 3064-AD95
- 137. FDIC, Final Rule Stage, Regulatory Capital Rules (Part III): Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements, 3064-AD96
- 138. FDIC, Final Rule Stage, Regulatory Capital Rules (Part III): Advanced Approaches Risk-Based Capital Rules; Market Risk Capital Rule, 3064-AD97

Office of Personnel Management

- 139. OPM, Proposed Rule Stage, Multi-State Exchanges; Implementations for Affordable Care Act Provisions, 3206-AM47

From the Unified Agenda (55 Completed Actions)

Department of Agriculture

- 140. USDA/FNS, Nutrition Standards in the National School Lunch and School Breakfast Programs, 0584-AD59

Department of Education

- 141. ED/OESE, Teacher Incentive Fund, 1810-AB12
- 142. ED/OESE, Race to the Top—Early Learning Challenge Phase 2, 1810-AB15
- 143. ED/OPE, Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program, 1840-AD05

Department of Energy

- 144. DOE/EE, Energy Efficiency Standards for Fluorescent Lamp Ballasts, 1904-AB50
- 145. DOE/EE, Energy Conservation Standards for Residential Clothes Washers, 1904-AB90
- 146. DOE/EE, Energy Efficiency Standards for Dishwashers, 1904-AC64

Department of Health and Human Services

- 147. HHS/FDA, Electronic Submission of Data from Studies Evaluating Human Drugs and Biologics, 0910-AC52
- 148. HHS/FDA, Effective Date of Requirement for Premarket Approval for Two Class III Preamendments Devices, 0910-AG78
- 149. HHS/CMS, Changes in Provider and Supplier Enrollment, Ordering and Referring, and Documentation Requirements; and Changes in Provider Agreements (CMS-6010-F), 0938-AQ01
- 150. HHS/CMS, Administrative Simplification: Adoption of Standards for Electronic Funds Transfer (EFT) (CMS-0024-IFC), 0938-AQ11
- 151. HHS/CMS, Administrative Simplification: Standard Unique Identifier for Health Plans and ICD-10 Compliance Date Delay (CMS-0040-F), 0938-AQ13
- 152. HHS/CMS, Community First Choice Option (CMS-2337-F), 0938-AQ35

153. HHS/CMS, Medicaid Eligibility Expansion under the Affordable Care Act of 2010 (CMS-2349-F), 0938-AQ62
154. HHS/CMS, Payments for Services Furnished by Certain Primary Care Physicians and Charges for Vaccine Administration under the Vaccines for Children Program (CMS-2370-F), 0938-AQ63
155. HHS/CMS, Establishment of Exchanges and Qualified Health Plans Part I (CMS-9989-F), 0938-AQ67
156. HHS/CMS, Medicare and Medicaid Electronic Health Record Incentive Program—Stage 2 (CMS-0044-F), 0938-AQ84
157. HHS/CMS, Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 (CMS-4157-F), 0938-AQ86
158. HHS/CMS, Medicare and Medicaid Programs: Reform of Hospital and Critical Access Hospital Conditions of Participation (CMS-3244-F), 0938-AQ89
159. HHS/CMS, Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS-9070-F), 0938-AQ96
160. HHS/CMS, Administrative Simplification: Adoption of Operating Rules for Electronic Funds Transfer (EFT) and Remittance Advice (RA) (CMS-0028-IFC), 0938-AR01
161. HHS/CMS, State Requirements for Exchange—Reinsurance and Risk Adjustments (CMS-9975-F), 0938-AR07
162. HHS/CMS, Proposed Changes to Hospital OPPS and CY 2013 Payment Rates; ASC Payment System and CY 2013 Payment Rates (CMS-1589-FC), 0938-AR10
163. HHS/CMS, Revisions to Payment Policies under the Physician Fee Schedule and Part B for CY 2013 (CMS-1590-FC), 0938-AR11
164. HHS/CMS, Changes to the Hospital Inpatient and Long-Term Care Prospective Payment Systems for FY 2013 (CMS-1588-F), 0938-AR12
165. HHS/CMS, Changes to the End-Stage Renal Disease Prospective Payment System for CY 2013 (CMS-1352-F), 0938-AR13
166. HHS/CMS, Part B Monthly Actuarial Rates, Monthly Premium Rates, and Annual Deductible Beginning January 1, 2013 (CMS-8048-N), 0938-AR16
167. HHS/CMS, Hospice Wage Index for FY 2013 (CMS-1434-N), 0938-AR17
168. HHS/CMS, Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2013 (CMS-1432-N), 0938-AR20
169. HHS/CMS, Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2013 (CMS-1433-N), 0938-AR21
170. HHS/CMS, Hospital Inpatient and Outpatient Payments: Hospitals' Wage Index Reclassifications Extension under the Temporary Payroll Tax Cut Continuation Act of 2011 (CMS-1442-N), 0938-AR39

Department of Homeland Security

171. DHS/USCG, Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters, 1625-AA32

Department of Housing and Urban Development

172. HUD/CPD, Housing Trust Fund Program (FR-5246), 2506-AC23

Department of the Interior

173. DOI/BOEM, Revised Requirements for Well Plugging and Platform Decommissioning, 1010-AD61
174. DOI/BSEE, Increased Safety Measures for Oil and Gas Operations on the Outer Continental Shelf (OCS), 1014-AA02
175. DOI/FWS, Migratory Bird Hunting; 2012–2013 Migratory Game Bird Hunting Regulations, 1018-AX97

Department of Justice

176. DOJ/LA, National Standards to Prevent, Detect, and Respond to Prison Rape, 1105-AB34

Department of Labor

177. DOL/EBSA, Improved Fee Disclosure for Pension Plans, 1210-AB08

Department of State

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

Department of Transportation

179. DOT/FMCSA, National Registry of Certified Medical Examiners, 2126-AA97
180. DOT/NHTSA, Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2017 and Beyond, 2127-AK79
181. DOT/FRA, Positive Train Control Systems Amendments (RRR), 2130-AC27
182. DOT/PHMSA, Hazardous Materials: Transportation of Lithium Batteries, 2137-AE68

Department of the Treasury

183. TREAS/OCC, Risk-Based Capital Guidelines: Market Risk, 1557-AC99

Department of Veterans Affairs

184. VA, Vocational Rehabilitation and Employment Program—Changes to Subsistence Allowance, 2900-AO10

Environmental Protection Agency

185. EPA/AR, Petroleum Refineries—New Source Performance Standards (NSPS)—Subparts J and JA, 2060-AN72
186. EPA/AR, Review of the National Ambient Air Quality Standards for Particulate Matter, 2060-AO47
187. EPA/AR, Oil and Natural Gas Sector—New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, 2060-AP76
188. EPA/AR, Joint Rulemaking to Establish 2017 and Later Model Year Light Duty Vehicle GHG Emissions and CAFE Standards, 2060-AQ54
189. EPA/AR, Regulation of Fuels and Fuel Additives: 2013 Biomass-Based Diesel Renewable Fuel Volume, 2060-AR55
190. EPA/AR, National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Electric Utility Steam Generating Units, 2060-AP52

Consumer Product Safety Commission

191. CPSC, Testing, Certification, and Labeling of Certain Consumer Products, 3041-AC71

Federal Deposit Insurance Corporation

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

Nuclear Regulatory Commission

193. NRC, Revision of Fee Schedules: Fee Recovery for FY 2012 (NRC-2011-0207), 3150-AJ03

Postal Regulatory Commission

194. PRC, Review of Institutional Cost Contribution for Competitive Products, 3211-AA07

From the Unified Agenda (30 Long-Term Actions)

Department of Agriculture

195. USDA/FSIS, Mandatory Inspection of Catfish and Catfish Products, 0583-AD36

Department of Energy

196. DOE/EE, Energy Efficiency Standards for Metal Halide Lamp Fixtures, 1904-AC00
197. DOE/EE, Energy Efficiency Standards for Microwave Ovens (Standby and Off Mode), 1904-AC07
198. DOE/EE, Energy Efficiency Standards for Manufactured Housing, 1904-AC11
199. DOE/EE, Energy Conservation Standards for ER, BR, and Small Diameter Incandescent Reflector Lamps, 1904-AC15
200. DOE/EE, Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps, 1904-AC43
201. DOE/EE, Energy Conservation Standards for Wine Chillers and Miscellaneous Refrigeration Products, 1904-AC51
202. DOE/EE, Energy Conservation Standards for Commercial Clothes Washers, 1904-AC77

Department of Health and Human Services

203. HHS/CMS, Transparency Reports and Reporting of Physician Ownership of Investment Interests (CMS-5060-F), 0938-AR33

Department of Homeland Security

204. DHS/OS, 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
205. DHS/OS, Ammonium Nitrate Security Program, 1601-AA52
206. DHS/FEMA, Disaster Assistance; Federal Assistance to Individuals and Households, 1660-AA18

Department of Justice

207. DOJ/DEA, Electronic Prescriptions for Controlled Substances, 1117-AA61

Department of Labor

208. DOL/EBSA, Mental Health Parity and Addiction Equity Act, 1210-AB30

209. DOL/EBSA, Improved Fee Disclosure for Welfare Plans, 1210-AB37
210. DOL/EBSA, Group Health Plans and Health Insurance Coverage Relating to Status as a Grandfathered Health Plan under the Patient Protection and Affordable Care Act, 1210-AB42

Department of Transportation

211. DOT/FMCSA, Minimum Training Requirements for Entry Level Commercial Motor Vehicle Operations, 2126-AB06

Department of the Treasury

212. TREAS/DO, TARP Standards for Compensation and Corporate Governance, 1505-AC09
213. TREAS/DO, Small Business Lending Fund Refinance, 1505-AC34

Environmental Protection Agency

214. EPA/SWER, Standards for the Management of Coal Combustion Residuals Generated by Commercial Electric Power Producers, 2050-AE81
215. EPA/SWER, Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry, 2050-AG61

216. EPA/AR, Risk and Technology Review for Ferroalloys Production, 2060-AQ11

Consumer Product Safety Commission

217. CPSC, Flammability Standard for Upholstered Furniture, 3041-AB35

Federal Communications Commission

218. FCC, Broadband over Power Line Systems, 3060-AI24
219. FCC, Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04-344), 3060-AJ16
220. FCC, In the Matter of Service Rules for the 698 to 746, 747 to 762, and 777 to 792 MHz Bands, 3060-AJ35
221. FCC, Universal Service Reform Mobility Fund (WT Docket No. 10-208), 3060-AJ58
222. FCC, IP-Enabled Services, 3060-AI48
223. FCC, Form 477; Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, 3060-AJ15
224. FCC, Implementation of Section 224 of the Act; A National Broadband Plan for Our Future (WC Docket No. 07-245, GN Docket No. 09-51), 3060-AJ64

Sources: Data compiled by Wayne Crews from "The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, and from online edition at <http://www.reginfo.gov>. Note: The "Regulation Identifier Number" appears at the end of each entry. Sequential numbers in print editions of 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 G. Rules Affecting Small Business, 1996–2011

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996
Department of Agriculture	65	84	87	93	73	67	54	52	64	39	56	47	49	63	58	56
Department of Commerce	115	98	90	107	112	111	108	79	74	77	89	98	88	52	29	46
Department of Defense	26	16	12	7	13	14	13	12	13	6	8	7	15	21	15	22
Department of Education	1	1	0	0	0	1	0	0	0	1	0	0	0	0	1	1
Department of Energy	6	3	2	1	1	0	0	0	1	0	1	1	0	0	2	2
Department of Health & Human Services	100	112	94	93	96	109	112	106	96	92	108	107	75	88	100	89
Department of Homeland Security	34	37	35	42	44	43	43	38	33	0	0	0	0	0	0	0
Department of Housing & Urban Development	0	1	0	1	5	4	4	6	11	6	3	0	1	1	7	9
Department of the Interior	23	18	17	18	19	29	21	20	26	17	20	18	33	29	28	17
Department of Justice	9	5	3	2	5	7	8	8	8	13	15	14	14	10	26	27
Department of Labor	23	26	29	29	26	26	19	19	23	22	26	40	38	41	39	51
Department of State	21	20	4	3	1	0	1	1	2	6	3	2	0	0	1	2
Department of Transportation	56	49	45	41	43	60	63	103	151	216	244	266	246	208	44	31
Department of the Treasury	47	56	48	47	45	37	41	38	27	26	27	31	15	60	50	52
Department of Veterans Affairs	2	3	2	2	0	0	0	0	0	1	1	3	6	6	7	3
Agency for International Development	1	1	0	0	1	1	0	0	1	2	1	0	0	0	0	0
Architectural & Transportation Barriers Compliance Board	1		0	0	0	0	0	0	0	1	1	2	2	3	0	0
Commodity Futures Trading Commission	0		1	1	1	0	1	1	2	0	0	0	0	1	0	0
Consumer Financial Protection Bureau	5															
Consumer Product Safety Commission	0			0	0	1	0	0	0	0	0	0	0	0	0	1
Corporation for National & Community Service	0		0	0	0	1	1	0	0	0	0	0	0	0	0	0
Environmental Protection Agency	73	95	89	83	85	95	110	122	135	167	185	205	179	178	163	152
Equal Employment Opportunity Commission	5	5	4	2	3	3	3	0	0	0	2	0	0	2	1	0
Federal Acquisition Regulation	10	5	4	6	5	5	7	5	5	6	9	13	16	11	15	20
Federal Communications Commission	78	112	110	110	109	108	113	113	104	109	117	105	91	82	70	75
Federal Deposit Insurance Corporation	2	1														
Federal Emergency Management Agency				0	0	0	0	0	0	1	1	1	0	0	0	1
Federal Energy Regulatory Commission	0			0	1	0	0	0	0	0	0	0	1	0	0	0
Federal Housing Finance Board	0			0	0	0	0	0	0	0	0	0	0	1	0	0
Federal Maritime Commission	3	3	3	3	2	3	5	7	10	7	6	7	4	5	0	0
Federal Mediation & Conciliation Service	0			0	0	0	0	0	0	0	1	1	0	0	0	0
Federal Reserve System	17	8	6	5	5	3	6	5	3	7	10	8	2	5	2	4
Federal Trade Commission	22	16	16	13	11	13	12	11	9	9	9	9	10	10	11	7
General Services Administration	4	5	6	7	3	3	3	1	5	4	1	1	2	2	3	6

National Aeronautics & Space Administration	3			0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	1	
National Archives & Records Administration	0			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
National Credit Union Administration	4	4	7	3	1	4	1	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
National Endowment for the Arts				0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0
National Endowment for the Humanities	0			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Nuclear Regulatory Commission	3	1	2	1	2	1	1	0	3	5	5	3	5	3	5	3	5	8	9	8	9	8	8
Office of Management & Budget	0			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Railroad Retirement Board	0			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Resolution Trust Corporation							0	17	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Securities & Exchange Commission	27	21	21	19	29	16	0	20	25	28	26	40	39	27	34	48	27	34	27	34	27	34	48
Small Business Administration	35	39	20	13	15	21	19	18	24	21	21	24	28	20	13	17	20	20	20	13	20	13	17
Social Security Administration	1		1	1	1	1	1	1	1	1	1	0	2	0	0	0	2	0	0	0	0	0	1
TOTAL	822	845	758	753	757	787	788	789	859	892	996	1,054	963	937	733	754	937	733	937	733	937	733	754

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 H. Federal Rules Affecting State and Local Governments, 2002–2012

	2012, Active, Completed, Long-Term						2011, Active, Completed Long-Term					
	State			Local			State			Local		
	A	C	LT	A	C	LT	A	C	LT	A	C	LT
Department of Agriculture	39	9	0	27	6	0	44	9	2	29	8	1
Department of Commerce	16	11	2	6	2	2	19	6	2	7	3	2
Department of Defense	1	0	0	1	0	0	1	0	0	1	0	0
Department of Education	0	1	0	0	0	0	0	0	0	0	0	0
Department of Energy	6	6	0	5	5	0	13	9	0	11	5	0
Department of Health & Human Services	42	20	3	17	3	1	39	21	9	14	7	2
Department of Homeland Security	9	2	5	10	1	1	11	8	13	11	6	7
Department of Housing & Urban Development	8	3	0	9	3	0	10	0	0	10	0	0
Department of the Interior	26	9	0	14	4	0	29	9	0	16	2	0
Department of Justice	9	3	3	5	3	3	11	2	2	7	2	2
Department of Labor	14	6	3	6	2	2	12	0	3	7	0	2
Department of State	2	0	0	0	0	0	2	0	0	0	0	0
Department of Transportation	8	3	3	4	2	2	9	1	3	7	0	0
Department of the Treasury	18	4	3	15	2	3	22	4	0	16	4	0
Department of Veterans Affairs	2	1	0	1	0	0	3	1	0	1	0	0
Advisory Council on Historic Preservation	n/a	n/a	n/a	n/a	n/a	n/a						
Architectural & Transportation Barriers Compliance Board	4	1	0	3	1	0	4	0	1	3	0	1
Consumer Financial Protection Bureau	1	1	1	0	0	0	3					
Corporation for National & Community Service	0	1	2	0	1	2	3	3	0	3	3	0
Court Services/Offender Supervision, DC				1								
CPBSD*	0	0	0	0	0	0	0	1	0	0	1	0
Environmental Protection Agency	37	26	20	24	18	15	67	22	26	47	17	15
Equal Employment Opportunity Commission	3	2	0	3	2	0	3	2	0	3	2	0
Federal Communications Commission	0	0	25	0	0	18	0	0	24	0	0	17
Federal Emergency Management Agency	n/a	n/a	n/a	n/a	n/a	n/a						
Federal Energy Regulatory Commission	0	0	0	0	0	0	0	0	0	0	0	0
Federal Reserve System	0	1	1	0	1	1	1	1	1	1	0	1
Federal Trade Commission	1	1	0	1	0	0	2	0	0	1	0	0
General Services Administration	3	0	0	3	0	0	1	6	0	1	5	0
Institute of Museum & Library Services	0	1	0	0	1	0	0	0	1	0	0	1
National Aeronautics & Space Administration	0	0	0	0	0	0	0	0	0	0	0	0
National Archives & Records Administration	0	0	0	0	0	0	0	0	0	0	0	0
National Credit Union Administration	0	0	0	0	0	0	1	0	0	0	0	0
National Endowment for the Arts	1	0	0	1	0	0						
National Endowment for the Humanities	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
Nuclear Regulatory Commission	4	2	1	2	2	0	3	1	1	2	1	0
Office of Management & Budget	0	0	0	0	0	0	0	0	0	0	0	0
Securities & Exchange Commission	2	1	0	1	0	0	2	0	0	1	0	0
Social Security Administration	0	0	1	0	0	0	2	0	0	0	0	0
STATE AND LOCAL TOTALS	256	115	73	159	59	50	317	106	88	199	66	51

*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>. Note: n/a = not available.

2010		2009		2008		2007		2006		2005		2004		2003		2002	
State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local
53	36	75	49	72	41	63	43	74	58	69	59	71	59	53	42	60	49
27	11	20	11	22	11	22	9	28	9	34	8	23	9	18	9	15	8
1		1	0	1	0	0	0					1	1	2	2	2	2
		0	0	0	0	0	0	1				0	0	0	0	1	1
26	22	23	20	27	25	19	18	12	9	16	15	9	8	9	9	8	9
86	42	71	38	69	41	83	45	70	47	34	19	35	18	40	20	46	21
35	26	39	30	33	25	37	28	39	28	39	29	37	27	34	28	0	0
8	9	2	3	2	4	1	4	3	7	6	10	9	13	14	23	13	17
28	9	30	7	41	11	37	9	37	11	44	17	37	16	42	20	47	22
21	15	16	11	15	10	17	11	14	8	15	9	16	10	15	11	28	21
20	10	27	15	17	9	20	7	13	8	16	10	18	12	23	14	25	16
1		1	0	2	0	3	0	3		4	1	1	1	2	1	2	1
13	5	16	6	18	6	19	7	27	12	11	4	21	13	26	16	42	23
29	24	29	24	24	20	28	25	16	15	13	12	17	13	22	15	17	12
5	1	0	0	1	0	1	0	1		2	1	3	2	5	2	4	1
												1	0	1	0	1	0
3	2	3	2	2	2	2	2	1	1	1	1	2	2	2	2	3	3
4	4	5	5	5	5	6	6	7	7	9	9	5	5	4	4	8	8
1	1	1	1	1	1	2	2	2	2	2	2	2	2				
125	85	101	70	104	65	119	80	132	86	143	98	140	92	157	103	155	101
6	6	5	5	2	3	3	4	3	4	3	4	1	1	2	2	2	2
32	23	30	20	32	20	31	20	32	19	37	24	33	20	21	16	23	18
												0	0	0	0	8	8
		0	0			0	0					1	0	2	1	2	2
1	1	0	0			0	0	1	1			0	0	0	0	0	0
2	1	3	1	1	0	1	0	2		1		1	0	1	0	1	0
9	7	9	7	10	7	8	5	8	5	8	5	8	6	11	7	10	6
2	2	0	0	1	1	1	1	1	1	1	1	1	1	2	2	2	2
		0	0			0	0					0	0	0	0	0	0
		0	0	1	1	3	3	4	4	4	4	4	4	4	4	4	4
1		0	0	1	0	0	0	3		2		0	0	1	0	1	0
		0	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1
		0	0			0	0					0	0	1	1	1	1
		0	0			0	0					0	0	0	0	1	0
3	1	4	2	3	1	4	1	3	1	3	1	3	0	4	1	1	1
		0	0			0	0	1	1	1	1	1	1	0	0	0	0
3	3	1	1	2	2	4	3	2	1	1	1	0	0	0	0	0	0
2		2	0	3		4	0	2		3		5	1	8	3	5	3
547	346	514	328	513	312	539	334	543	346	523	346	507	338	527	359	539	363

Notes

1 Congressional Budget Office (CBO), *The Budget and Economic Outlook: Fiscal Years 2013 to 2023*, February 2013, Table 1-1, “CBO’s Baseline Budget Projections,” p. 9, http://www.cbo.gov/sites/default/files/cbofiles/attachments/43907_Outlook_2012-2-5.pdf.

2 Office of Management and Budget (OMB), *Budget of the United States Government*, Fiscal Year (FY) 2014, Summary Tables, Table S-1, “Budget Totals,” <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/tables.pdf>.

3 Ibid.

4 OMB, FY 2013, Table S-1.

5 Percentages are available from Organization for Economic Cooperation and Development, Economic Outlook Annex Tables, <http://www.oecd.org/eco/economicoutlookanalysisandforecasts/economicoutlookannextables.htm>; Annex Table 25, “General Government Total Outlays, 2012,” <http://dx.doi.org/10.1787/888932750892>.

6 Central Intelligence Agency, *The World Factbook*, <https://www.cia.gov/library/publications/the-world-factbook/fields/2056.html>. Nations with at least \$1 trillion in revenues are Brazil, China, France, Germany, Italy, Japan, and the United Kingdom.

7 For a recent survey of corporate tax incidence estimates, see Jennifer C. Gravelle, “Corporate Tax Incidence: A Review of Empirical Estimates and Analysis,” Congressional Budget Office Working Paper Series: Working Paper 2011-01, June 2011, <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/122xx/doc12239/06-14-2011-corporatetaxincidence.pdf>.

8 See James M. Buchanan, *Cost and Choice: An Inquiry in Economic Theory* (Chicago and London: University of Chicago Press, 1969).

9 The original is Clyde Wayne Crews Jr., “Ten Thousand Commandments: Regulatory Trends 1981-92 and the Prospects for Reform,” *Regulatory Perspective*, Citizens for a Sound Economy Foundation, February 8, 1993, <http://www.scribd.com/doc/74632282/Ten-Thousand-Commandments-1993-Original-CSE-Report>. It was also published under the same title in the *Journal of Regulation and Social Costs*, Vol. 2, No. 4, March 1993, pp. 105-150, <http://www.scribd.com/doc/74786599/Crews-Wayne-Ten-Thousand-Commandments-Regulatory-Trends-1981-92-Journal-of-Regulation-and-Social-Costs-Vol-2-No-4-March-1993>.

10 Crews, “Tip of the Costberg: On the Invalidity of All Cost of Regulation Estimates and the Need to Compile Them Anyway,” working paper, Competitive Enterprise Institute, Fall 2012, <http://www.scribd.com/doc/103172296/Tip-of-the-Costberg-On-the-Invalidity-of-All-Cost-of-Regulation-Estimates-and-the-Need-to-Compile-Them-Anyway-August-17-2012-Uncopyedited-Draft>.

11 Crews, “Federal Regulation: The Costs of Benefits,” *Forbes*, January 7, 2013, <http://www.forbes.com/sites/waynecrews/2013/01/07/federal-regulation-the-costs-of-benefits/>.

12 “Measuring the Impact of Regulation: The Rule of More,” *The Economist*, February 18, 2012, <http://www.economist.com/node/21547772>.

13 The Regulatory Report Card has long been proposed in *Ten Thousand Commandments*; it was also featured in Crews, “The Other National Debt Crisis: How and Why Congress Must Quantify Federal Regulation,” Issue Analysis, 2011, No. 4, Competitive Enterprise Institute, October 2011, <http://cei.org/issue-analysis/other-national-debt-crisis>. These reporting proposals appeared in Sen. Olympia Snowe’s (R-Me.) 112th Congress legislation, Restoring Tax and Regulatory Certainty to Small Businesses (RESTART) Act of 2012 (S. 3572), introduced on September 12, 2012. Section 213 detailed this proposed “regulatory transparency reporting” (http://beta.congress.gov/112/bills/s3572/112s3572is_pdf.pdf).

14 OMB, *Historical Tables*, <http://www.whitehouse.gov/omb/budget/Historicals>.

15 CBO website, <http://www.cbo.gov/>.

16 OMB, *Draft 2012 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, Table 1-1, “Estimates of the Total Annual Benefits and Costs of Major Federal Rules by Agency, October 1, 2001–September 30, 2011 (billions of 2001 dollars),” March 2012, pp. 12-13, http://www.whitehouse.gov/sites/default/files/omb/oira/draft_2012_cost_benefit_report.pdf.

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

18 Their calculations updated a 2005 report by Mark Crain that found 2004 regulatory costs of \$1.1 trillion (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://archive.sba.gov/advo/research/rs264tot.pdf>). In a still earlier October 2001 report by Crain and Thomas Hopkins, the authors noted regulatory costs of \$843 billion (W. Mark Crain and Thomas D. Hopkins, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, RFP No. SBAHQ-00-R-0027, October 2001, <http://www.sba.gov/advo/research/rs207tot.pdf>). That report, in turn, updated still earlier analyses, such as Thomas D. Hopkins, “The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress,” Small Business Administration, Office of the Chief Counsel for

Advocacy, Washington, DC, October 1995, http://www.sba.gov/advo/laws/archive/law_brd.html.

Recent criticisms of the current Crain and Crain report (“The Impact of Regulatory Costs,” see note 21) would also apply to some OMB calculations and have in the past, although, alas, critics do not present alternative defensible total cost estimates. In particular, the Crain and Crain model for calculating costs of economic regulations using the World Bank Regulatory Quality Index has fallen under criticism by OMB and others. Earlier Crain/Hopkins estimates, in current dollars, would be in the same ballpark even without including costs of interim regulations. Moreover, current estimates do not capture the costs of such major initiatives as health care legislation, Dodd-Frank financial regulation, or even the earlier Sarbanes-Oxley financial rules. This author addressed some of those concerns about the SBA study in a *Forbes* column (Crews, “The Cost of Government Regulation,” *Forbes*, July 6, 2011, <http://www.forbes.com/sites/waynecrews/2011/07/06/the-cost-of-government-regulation-the-barack-obama-cass-sunstein-urban-legend/>).

Following are the primary criticisms and links to Crain and Crain’s responses to them:

Curtis W. Copeland, “Analysis of an Estimate of the Total Costs of Federal Regulations,” Congressional Research Service, April 6, 2011, http://www.progressivereform.org/articles/CRS_Crain_and_Crain.pdf. Crain and Crain response: <http://policystudies.lafayette.edu/files/2011/03/Response-to-CRS-April-28-2011-inc2.pdf>.

Sidney A. Shapiro, Ruth Ruttenberg, and James Goodwin, “Setting the Record Straight: The Crain and Crain Report on Regulatory Costs,” Center for Progressive Reform White Paper No. 1103, February 2011, http://www.progressivereform.org/articles/SBA_Regulatory_Costs_Analysis_1103.pdf. Crain and Crain response: http://policystudies.lafayette.edu/files/2011/03/Analysis-of-CPR_4_27_last.pdf.

John Irons and Andrew Green, “Flaws Call for Rejecting Crain and Crain Model,” Economic Policy Institute Issue Brief No. 308, July 19, 2011, http://www.epi.org/publication/flaws_call_for_rejecting_crain_and_crain_model/. Crain and Crain response: <http://policystudies.lafayette.edu/files/2011/03/EPI-response.pdf>.

19 Crain and Crain, “The Impact of Regulatory Costs,” pp. 7–8.

20 Ibid.

21 For example, the February 18, 2012, issue of *The Economist* features a special section, “Over-Regulated America,” which notes, “[R]ed tape in America is no laughing matter. The problem is not the rules that are self-evidently absurd. It is the ones that sound reasonable on their own but impose a huge burden collectively. America is meant to be the home of laissez-faire.... Yet for some time America has been straying from this ideal.” With respect to the regulations emerging from the

Dodd-Frank law, the story notes that “financial firms in America must prepare to comply with a law that is partly unintelligible and partly unknowable.” (<http://www.economist.com/node/21547789>) This special section includes the following articles: “Measuring the Impact of Regulation: The Rule of More” (<http://www.economist.com/node/21547772>); “Deleting Regulations: Of Sunstein and Sunsets” (<http://www.economist.com/node/21547799>); and “Excessive Regulation: Tangled Up in Green Tape” (<http://www.economist.com/node/21547804>). See also James Pethokoukis, “The Return of Big Government,” *U.S. News & World Report*, April 11, 2008, <http://www.usnews.com/money/business-economy/articles/2008/04/11/the-return-of-big-government.html>.

22 Crews, “Tip of the Costberg.”

23 See Thomas D. Hopkins, “Statement Prepared for the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform and Oversight,” May 16, 1996. See also Hopkins, “Regulatory Costs in Profile,” Policy Study No. 231, Center for the Study of American Business, August 1996, p. 4.

24 CBO, Supplement to the 2009 *Budget and Economic Outlook* (see note 4).

25 CBO, February 2013, Table 1-1.

26 These figures for the 2008, 2009, and 2010 deficit and outlays may be found in CBO, *The Budget and Economic Outlook*, January 2009, 2010, and 2011 editions, all available at <http://www.cbo.gov>.

27 See OMB, *Historical Tables*, Table 1.3, “Summary of Receipts, Outlays, and Surpluses or Deficits (–) in Current Dollars, Constant (FY 2005) Dollars, and as Percentages of GDP: 1940–2017,” <http://www.whitehouse.gov/omb/budget/Historicals>.

28 Estimated 2012 tax figures from OMB, *Historical Tables*, Table 2.1, “Receipts by Source: 1934–2017,” <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2013/assets/hist02z1.xls>.

29 Ibid.

30 Corporate 2011 pretax profits (domestic and international) from Bureau of Economic Analysis, *National Income and Product Accounts Tables*, Table 6.17D, “Corporate Profits before Tax by Industry,” <http://www.bea.gov/iTable/iTable.cfm?ReqID=9&step=1#reqid=9&step=3&isuri=1&903=243>.

31 Gross domestic product data from World Bank, Washington, DC, Data: GDP (current US\$), <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD/countries>.

32 CBO, February 2013, Table 1-1.

33 Bureau of Labor Statistics, “Consumer Expenditures—2011,” news release, September 25, 2012, <http://www.bls.gov/news.release/cesan.nr0.htm>.

34 Ibid. The BLS also provided additional information on these figures via email and the following document: “Average Annual Expenditures and Characteristics of All Consumer Units, Consumer Expenditure Survey, 2006-2011,” <http://www.bls.gov/cex/2011/standard/multiyr.pdf>.

35 Susan Dudley and Melinda Warren, “Growth in Regulators’ Budget Slowed by Fiscal Stalemate: An Analysis of the U.S. Budget for Fiscal Years 2012 and 2013,” Regulators’ Budget Report 34, published jointly by the Regulatory Studies Center at George Washington University and the Weidenbaum Center at Washington University, July 2012, <http://wc.wustl.edu/files/wc/imce/2013regreport.pdf>. Original 2005 constant dollars are adjusted here by the change in the consumer price index between 2005 and 2010, derived from Consumer Price Index, U.S. Department of Labor, Bureau of Labor Statistics, Washington, DC, January 16, 2013 (all urban consumers [CPI-U], U.S. city average, all items), <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt>.

36 Regulatory Information Service Center, “Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions,” 2012, http://www.reginfo.gov/public/jsp/eAgenda/StaticContent/201210/Preamble_8888.html.

37 Emma Schwartz, “The Bush Administration’s Midnight Regulations,” ABC News, October 30, 2008, <http://abcnews.go.com/Blotter/Story?id=6146929&page=1>; and Stephen Power, Elizabeth Williamson, and Christopher Conkey, “White House Pushes through a Flurry of Rule Changes Sought by Business,” *Wall Street Journal*, November 20, 2008, <http://online.wsj.com/article/SB122714583954143319.html>.

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

39 The memo specified that “no proposed or final regulation should be [published] unless and until it has been reviewed and approved by a department or agency head appointed or designated by the President after noon on January 20, 2009.” The memo, like moratoriums issued by prior administrations, exempts regulations that address “urgent circumstances relating to health, safety, environmental, financial, or national security matters,” as well as regulations subject to statutory or judicial deadlines.

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

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

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

43 It did not appear in the *Federal Register*; but in the on-line database at <http://www.reginfo.gov>.

44 Memorandum for Regulatory Policy Officers at Executive Departments and Agencies and Managing and Executive Directors of Certain Agencies and Commissions, “Spring 2012 Unified Agenda of Federal Regulatory and Deregulatory Actions” (plus attachment), Executive Office of the President, March 12, 2012, <http://www.whitehouse.gov/sites/default/files/omb/assets/infomag/agenda-data-call-and-guidelines-spring-2012.pdf>.

45 Susan E. Dudley, “2012 Unified Agenda Less Informative,” George Washington University Regulatory Studies Center, February 6, 2013, http://research.columbian.gwu.edu/regulatorystudies/sites/default/files/u41/20130206_unified_agenda_dudley.pdf.

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

47 This count has been compiled in *Ten Thousand Commandments* over the years from printed editions of National Archives and Records Administration, Office of the Federal Register, “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” printed separately as well as in the *Federal Register*, and from <http://www.reginfo.gov>.

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

49 Remarks by the President in State of the Union Address, United States Capitol, Washington, DC, January 25, 2012, <http://www.whitehouse.gov/photos-and-video/video/2012/01/25/2012-state-union-address-enhanced-version#transcript>.

50 Examined in Crews, “The Burden of Federal Rules: Our Other Trillion-Dollar Debt,” *Investor’s Business Daily*, February 7, 2012, <http://news.investors.com/article/600378/201202071819/government-regulations-are-a-trillion-dollar-burden-on-the-economy.htm>.

51 Cited, for example, in *Federal Register*, vol. 74, No. 233, December 7, 2009, pp. 64131–32.

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

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

54 The GAO now only explicitly presents its major rule reports for the most recent three months (<http://www.gao.gov/legal/congressact/majrule.html>). To get a count going further back in time, a researcher must use the GAO’s database of rules submitted to it by agencies, on the presumption that the major ones

are those requiring and receiving a GAO report as required by the CRA (<http://www.gao.gov/legal/congress.html>).

55 James L. Gattuso and Diane Katz, “Red Tape Rising: Obama Era Regulation at the Three-Year Mark,” *Background* No. 2663, Heritage Foundation, March 13, 2012, <https://thf-media.s3.amazonaws.com/2012/pdf/bg2663.pdf>.

56 Darren Goode, “Gripes over EPA in Responses to Darrell Issa,” *Politico*, February 7, 2011, <http://www.politico.com/news/stories/0211/48995.html>.

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

58 Senator James Inhofe (R-Okla.), “A Look Ahead to EPA Regulations for 2013: Numerous Obama EPA Rules Placed on Hold until After the Election Spell Doom for Jobs and Economic Growth,” Senate Committee on Environment and Public Works, October 18, 2012, http://epw.senate.gov/public/index.cfm?FuseAction=Minority.PressReleases&ContentRecord_id=743423ef-07b0-4db2-bced-4b0d9e63f84b.

59 Regulatory Agendas and Regulatory Plans, Environmental Protection Agency website, <http://www.epa.gov/lawsregs/regulations/regagenda.html>.

60 Available at Regulations.gov, <http://resources.regulations.gov/public/custom/jsp/navigation/main.jsp>.

61 This figure (\$56 billion) is the sum of the FCC’s paperwork burden (\$2.28 billion), the cost of the Open Internet Rule (\$14.76 billion), and other FCC regulatory costs (\$38.95 billion). The FCC’s paperwork burden of \$2.28 billion reflects 56.93 million hours imposed by the agency on the American public in FY 2011, multiplied by \$40 per hour of average paperwork costs. The paperwork burden is from the Office of Management and Budget’s 2012 Information Collection Budget, http://www.whitehouse.gov/sites/default/files/omb/inforeg/icb/icb_2012.pdf; the hourly cost estimate is from the Congressional Research Service’s 2009 report, Paperwork Reduction Act (PRA): OMB and Agency Responsibilities and Burden Estimates, at 12 (Jun. 2009), <http://graphics8.nytimes.com/packages/pdf/nyregion/2009/records/paperworkreduction-reportbycrs.pdf>. The cost of the Open Internet Rule, \$14.76 billion, reflects the average annual GDP loss caused by a 10 percent decline in wire line broadband investment due to the rule, as compared to the expected baseline for the expanded broadband market absent the rule. Charles M. Davidson and Bret T. Swanson, Net Neutrality, Investment & Jobs: Assessing the Potential Impacts of the FCC’s Proposed Net Neutrality Rules on the Broadband Ecosystem, New York Law School Advanced Communications Law & Policy Institute, at 60 (June 2010), http://www.nyls.edu/user_files/1/3/4/30/83/Davidson%20&%20Swanson%20-%20NN%20Economic%20Impact%20Paper%20-%20FINAL.pdf. Other FCC regulatory costs, \$38.95 billion, reflect the excess burden—that is, the annual forgone output—caused by FCC regulations, not including the

agency’s spending, its paperwork burdens, or the Open Internet Rule. See Jerry Ellig, Costs and Consequences of Federal Telecommunications Regulations, *Federal Communications Law Journal*, Vol. 58, No.1, at 95, January 2006, <http://ssrn.com/abstract=982574>.

62 *Federal Register*, <http://www.federalregister.gov>. For another roundup of FCC regulations, see Ryan Young, “Federal Communications Commission: Regulations Impose \$142 Billion in Compliance Costs; More on the Way,” *Regulatory Report Card*, No. 2, Competitive Enterprise Institute, February 21, 2013, <http://cei.org/sites/default/files/Ryan%20Young%20-%20FCC%20Regulatory%20Report%20Card.pdf>.

63 Office of the Federal Register, search Agency, Federal Communications Commission, https://www.federalregister.gov/articles/search?conditions%5bagency_ids%5d%5b%5d=161&conditions%5bpublication_date%5d%5b%5d=2013&conditions%5btype%5d%5b%5d=RULE.

64 As seen in Dudley and Warren, “Growth in Regulators’ Budget Slowed by Fiscal Stalemate,” Table A-1, p. 17, <http://wc.wustl.edu/files/wc/imce/2013regreport.pdf>.

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

66 See Crews, Comments of the Competitive Enterprise Institute to the Federal Communications Commission in the matter of “Preserving the Open Internet Broadband Industry Practices,” GN Docket No. 09-191, WC Docket No. 07-52, January 14, 2010, <http://cei.org/sites/default/files/Neutrality%20comment%20to%20FCC%20Jan%202010.pdf>.

67 See Crews, Comments of the Competitive Enterprise Institute to the Federal Communications Commission in the matter of “The Future of Media and Information Needs of Communities in a Digital Age,” GN Docket No. 10-25, May 7, 2010, <http://www.scribd.com/doc/135189382/Wayne-Crews-Comments-of-Competitive-Enterprise-Institute-in-FCC-Future-of-Media-Proceeding-GN-Docket-No-10-25>.

68 Federal Communications Commission (FCC), Report and Order on “Preserving the Open Internet Broadband Industry Practices,” adopted December 21, 2010, <http://www.fcc.gov/document/preserving-open-internet-broadband-industry-practices-1>. See also: Brief for Competitive Enterprise Institute et al. as Amici Curiae Supporting Appellant, *Verizon v. FCC*, No. 11-1355 (D.C. Cir. Jul. 23, 2012), http://techfreedom.org/sites/default/files/Verizon_v_FCC_Amicus_Brief.pdf.

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

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

71 A version of CEI's major-rule categorization and disclosure recommendations noted just above is also explored in Crews, "The Other National Debt Crisis" (see note 17). These reporting proposals appeared in Sen. Olympia Snowe's 112th Congress legislation (see note 17). Section 213 detailed this proposed "regulatory transparency reporting" (http://beta.congress.gov/112/bills/s3572/112s3572is_pdf.pdf).

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

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

74 A Summary of the Record of the 112th Congress (2011–2012) of the United States, http://www.congress-summary.com/B-112th-Congress/Laws_Passed_112th_Congress_Seq.html.

75 Derived from "Public and Private Laws: Browse 112th Congress (2011–2012)" (http://frwebgate.access.gpo.gov/cgi-bin/browse?DB=112_cong_public_laws&template=plaws.tpl&sortoption=alphabetical) and from National Archives, "Previous Sessions: Public Law Numbers" (<http://www.archives.gov/federal-register/laws/past/index.html>).

About the Author

Wayne Crews is Vice President for Policy and Director of Technology Studies at the Competitive Enterprise Institute. He is widely published and a contributor at Forbes.com. A frequent speaker, he has appeared at venues including the DVD Awards Showcase in Hollywood, European Commission sponsored conferences, the National Academies, the Spanish Ministry of Justice and the Future of Music Policy Summit. He has testified before Congress on various policy issues. Crews has been cited in dozens of law reviews and journals. His work spans regulatory reform, antitrust and competition policy, safety and environmental issues, and various information-age policy concerns.

Alongside numerous studies and articles (including the recent *The Other National Debt Crisis: How and Why Congress Must Quantify Federal Regulation*), Crews is co-editor of the books *Who Rules the Net?: Internet Governance and Jurisdiction*, and *Copy Fights: The Future of Intellectual Property in the Information Age*. He is co-author of *What's Yours Is Mine: Open Access and the Rise of Infrastructure Socialism*, and a contributing author to other books. He has written in the *Wall Street Journal*, *Chicago Tribune*, *Communications Lawyer*, *International Herald Tribune* and other publications. He has appeared on Fox News, CNN, ABC, CNBC and the Lehrer NewsHour. His policy proposals have been featured prominently in the *Washington Post*, *Forbes* and *Investor's Business Daily*.

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