

Ten Thousand Commandments

An Annual Policymaker's Snapshot of the Federal Regulatory State

2001 Edition

Clyde Wayne Crews, Jr.

EXECUTIVE SUMMARY

In the new fiscal year 2002 federal budget, President George W. Bush proposed to spend \$1.96 trillion on discretionary, entitlement, and interest spending.¹ While these costs fully encompass the on-budget scope of the federal government, there is considerably more to the reach of the federal government than the sum of the taxes sent to Washington. Federal environmental, safety and health, and economic regulations cost hundreds of billions of dollars every year—*on top* of official federal outlays.

The exact cost of federal regulations can never be fully known. But governmental and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits—all of which can be compiled in a way that makes the regulatory state more comprehensible to the public. That is the purpose of the annual *Ten Thousand Commandments* report, some highlights of which appear below.

- The 2000 *Federal Register* contained 74,258 pages, the highest level since Jimmy Carter's presidency and a 4 percent jump over 1999.
- Approximately 4,300 final rules were issued by agencies in 2000, a 4 percent drop from the previous year.
- In 2000, 4,699 regulations were at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions, an increase of 3.5 percent over the previous year.
- Of the 4,699 regulations now in the works, 158 are "economically significant" rules that will have at least \$100 million in economic impact. That means new regulations to impose at least \$15.8 billion yearly in future off-budget costs are in the pipeline.
- \$100 million rules in the works increased 15 percent between 1999 and 2000, from 137 to 158.
- The five most active rule-producing agencies (the departments of Transportation, Treasury, Interior, and Commerce, and the Environmental Protection Agency) account for 48 percent of all rules under consideration.
- Of the 4,699 regulations now in the works, 1,054 impact small business. Rules impacting small businesses are up 9 percent over the past year and up 40 percent over the past five years.
- The costs of meeting the demands of off-budget social regulations were as high as \$229 billion, according to the Office of Management and Budget (OMB). A more broadly constructed competing

estimate that includes economic regulatory costs and paperwork costs pegs regulatory expenditures at \$788 billion in 2000, or 44 percent the size of all federal fiscal year 2000 outlays.

- Regulatory costs of \$788 billion are equivalent to 7.9 percent of U.S. gross domestic product, estimated at \$9,974 billion for 2000.
- Regulatory costs rival the amount estimated to be paid in 2000 individual income taxes, which was \$951.6 billion.
- In 1998, the median two-earner family's after-tax income of \$41,846 contained \$7,410 in hidden regulatory costs. Thus, regulatory costs eat up about 18 percent of the after-tax family budget.
- Agencies spent \$19 billion to administer and police the regulatory state in 2000, 6.7 percent more than the previous year. Counting the \$788 billion in off-budget costs, that brings the total regulatory burden to \$807 billion.

The U.S. is now enjoying its first string of budgetary surpluses in decades. But if maintaining a true surplus remains a priority, then sincere policymaking also must seek to control regulatory costs. Think of it this way: The maximum anticipated surplus is \$796 billion in 2010.² But the regulatory costs of over \$700 billion already rival that number. Moreover, regulations and taxes can be substitutes for one another; a new government program requires increasing spending—or imposing new rules and regulations. Thus, unless regulatory activity is better monitored, the balanced budget imperative may tend to invite Congress to adopt new off-budget private-sector regulations rather than new spending that would deplete the surplus. If regulatory costs remain largely hidden from public view, the fallout will be less from regulating than from taxing and spending.

Regulations should be treated the same way federal spending is treated: To the extent possible, Congress should be held directly accountable for the compliance costs—as well as the benefits—that federal regulations deliver to the public. Cost-benefit analysis of rules is the typical remedy proposed to police excess regulation. The problem with cost-benefit analysis, however, is that it is largely a form of agency self-policing; agencies would perform “audits” of their own rules. Granted, some propose that agency analyses be subjected to third-party review. But even this is unlikely to be enough, since agencies will rarely admit if benefits of a rule do not justify the costs involved.

The way to maximize congressional accountability is to require Congress to vote on agency rules (in an expedited fashion) before they are binding. Vital for true accountability, this step would fulfill citizens' rights to “No regulation without representation.” Disclosing costs of rules would remain important, however, even if Congress approved rules; openness about regulatory facts and figures is critical, just as disclosure of program costs is critical in the federal budget. Relatively simple “Regulatory Report Cards,” in some respects like the presentation in *Ten Thousand Commandments*, can be performed officially each year by the federal government to distill regulatory data.

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