

2007

Ten Thousand

Commandments

An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews, Jr.



Competitive Enterprise Institute

Ten Thousand Commandments

An Annual Snapshot of the Federal Regulatory State

by Clyde Wayne Crews Jr.

Executive Summary

President George W. Bush's federal budget for fiscal year (FY) 2008 proposed \$2.902 trillion in discretionary, entitlement, and interest spending.¹ Although those costs fully express the federal government's on-budget scope, the government's reach extends far beyond the taxes that Washington collects. Federal environmental, safety and health, and economic regulations cost hundreds of billions of dollars every year—in addition to official federal outlays.

Firms generally pass along to consumers some of the taxes imposed. Similarly, some regulatory compliance costs imposed on businesses fall to consumers. Exact regulatory costs can never be fully known; unlike taxes, they are unbudgeted. But scattered government and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits, some of which can be compiled in a way that makes the regulatory state more comprehensible. That compilation is one purpose of the annual *Ten Thousand Commandments* report, highlights of which appear next.

- Extrapolations from an estimate of the federal regulatory enterprise by econo-

mist Mark Crain show that regulatory costs hit \$1.142 *trillion* in 2006.

- Given that 2006 government spending reached \$2.654 trillion, the hidden tax of regulation now approaches half the level of federal spending itself.
- Regulatory costs are more than quadruple the \$248 billion budget deficit.
- Regulatory costs exceed 2004 corporate pretax profits of \$1.059 trillion.
- Regulatory costs exceed the estimated 2006 individual income taxes of \$998 billion.
- Regulatory costs dwarf corporate income taxes of \$277 billion.
- Regulatory costs of \$1.142 trillion absorb 9 percent of U.S. gross domestic product (GDP), which was \$13.06 trillion for 2006.
- If regulatory costs are combined with federal fiscal year 2006 outlays of \$2.654 trillion, the federal government's share of the economy reaches 29 percent.
- The Weidenbaum Center and the Mercatus Center jointly estimate that agencies spent \$41 billion to administer and police the regulatory state in 2006. If one includes the \$1.142 trillion in off-budget compliance costs, the total regulatory burden reaches \$1.183 trillion.

The government's reach extends far beyond the taxes that Washington collects.

**The U.S.
government
has conclusively
ended its recent
short-lived string
of budgetary
surpluses—the
first since 1969.**

- The 2006 *Federal Register* contained 74,937 pages, a 1.4 percent increase from 2005's 73,870 pages. Both the past two years are down from 2004's record-high 75,676 pages.
- In 2006, agencies issued 3,718 final rules, a 6 percent decline from 2005's 3,943 rules.
- Well over 48,000 final rules were issued from 1995 to 2006—that is, during Republican control of Congress.
- While regulatory agencies issued 3,718 final rules, Congress passed and the president signed into law a comparatively low 321 bills in 2006. Considerable lawmaking power is delegated to unelected agencies.
- In the 2006 *Unified Agenda*, agencies detailed 4,052 regulations now at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions.
- Of the 4,052 regulations now in the pipeline, 139 are “economically significant” rules with at least \$100 million in economic impact. That number implies at least \$13.9 billion yearly in future off-budget costs.
- Economically significant rules in the works increased slightly between 2005 and 2006, from 137 to 139.
- The five most active rule-producing agencies—the Departments of the Treasury, Agriculture, Interior, and Commerce, plus the Environmental Protection Agency, with 1,791 rules among them—account for 44 percent of all rules in the *Agenda* pipeline.
- Of the 4,052 regulations now in the works, 787 affect small business.

The U.S. government has conclusively ended its recent short-lived string of budgetary surpluses—the first since 1969. But if their regaining and maintaining a genuine surplus remains a priority, policy makers must con-

trol regulatory costs. Consider: The Congressional Budget Office projects no surplus over the coming decade until a speculative \$170 billion in 2012. Regulatory costs of more than \$1.14 trillion clearly dwarf that amount. Moreover, regulations and taxes can substitute for one another; a new government program requires increasing spending—or imposing new rules and regulations. Thus, without better regulatory monitoring, deficit control may invite congressional adoption of off-budget, private-sector regulations rather than new deficit spending. If regulatory costs remain largely hidden from public view, regulating remains attractive when compared with taxing and spending.

Regulations should be accounted for like federal spending: Whenever possible, Congress should answer for the compliance costs—as well as the benefits—of federal regulations. Cost-benefit analysis of rules is the typical remedy proposed to police excess regulation. The problem with cost-benefit analysis, however, is that it is largely a form of agency self-policing; agencies would perform “audits” of their own rules but would rarely admit that a rule's benefits do not justify the costs involved. At the least, some third-party review is needed.

A way to maximize congressional accountability is to require expedited congressional votes on agency rules before they become binding. This step would fulfill citizens' expectation of “no regulation without representation.”

Disclosing rules' costs would remain important, however, even if Congress approved rules; openness about regulatory facts and figures is critical, just as disclosure of program costs is critical in the federal budget. Rather, simple federal “regulatory report cards,” similar to the presentation in *Ten Thousand Commandments*, could be issued officially each year to distill regulatory data.

Introduction: Toward Ending “Regulation without Representation”

The federal government funds new programs by (a) raising taxes or (b) borrowing money—with a promise to repay, with interest, from future tax collections. No matter how controversial government spending programs, taxpayers can assess their costs in the federal budget. Congress’s spending accountability, though not perfect, is a necessary condition for government oversight. A third way the government funds programs is (c) by regulating. Rather than pay directly and book expenses for new initiatives, the government can require that the private sector and the state and local governments to pay instead.

Government regulation can advance desired programs without using tax dollars. Because

disclosure of and accountability for the regulatory costs are so rare, policy makers are often careless about regulatory costs relative to ordinary government spending. If such expenditures are unpopular, Congress escapes accountability and blames agencies for costs. Moreover, because regulatory costs are not budgeted and they lack the formal presentation to the public and media that accompanies federal spending, regulatory initiatives can allow manipulation of private sector resources with little public fuss, thus rendering regulation a form of off-budget taxation. Table 1 provides some perspective on the regulatory “tax” by presenting summary data for selected topics described herein. Trends over the past few years are provided where information is available.

If expenditures are unpopular, Congress escapes accountability and blames agencies for costs.

Table 1. The Regulatory State: An Overview

	2006	1-Year Change	5-Year Change (2002–2006)	10-Year Change (1997–2006)
Total regulatory costs	\$1.142 trillion	n/a	n/a	n/a
Agency enforcement budgets (real \$)	\$41 billion	3.8%	18.4%	66.4%
Federal Register pages	74,937	1.4%	–0.9%	16.1%
Federal Register pages devoted to final rules	22,347	–3.0%	16.2%	17.7%
Federal Register final rules	3,718	–5.7%	–10.8%	–18.9%
Total rules in Agenda	4,052	–0.2%	–3.2%	–8.0%
“Economically significant” rules in the pipeline	139	1.4%	3.0%	11.2%
Rules affecting small business	787	–0.1%	–11.8%	7.4%
Rules affecting state governments	543	3.8%	0.7%	–22.2%
Rules affecting local governments	346	0.0%	–4.7%	–21.7%
Total number of FCC rules in Agenda	139	–2.8%	–1.4%	41.8%
FCC rules affecting small business	108	–4.4%	–0.9%	54.3%

Note: n/a = not applicable.

The *Ten Thousand Commandments for 2007* contains four main sections:

1. An overview of the costs and scope of the regulatory state, such as its estimated size compared with the federal budget and the gross national product (GNP).
2. An analysis of trends in the numbers of regulations issued by agencies on the basis of information provided in the *Federal Register* and *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*.

3. Recommendations for regulatory reform that emphasize ending “regulation without representation.” This section offers steps to improve regulatory cost disclosure and to increase congressional accountability. It contrasts those steps with the agency-driven cost-benefit analysis that typical reform proposals emphasize.

4. An appendix containing historical tables of regulatory trends over the past several years.

The Regulatory State and Its Cost

Regulation's Social and Economic Costs

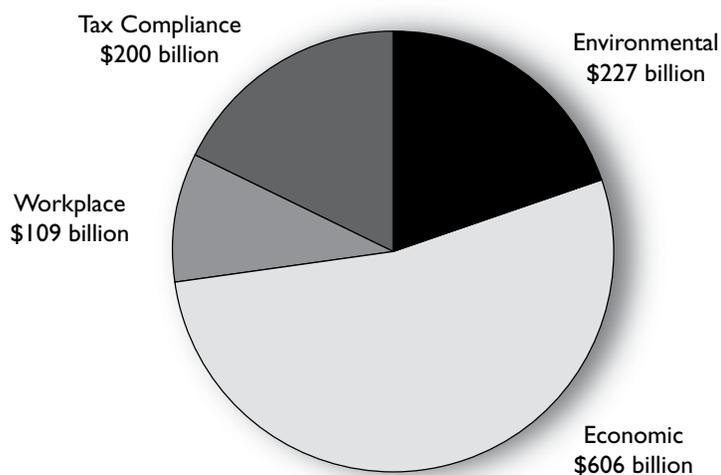
The Office of Management and Budget's (OMB) 2007 *Draft Report to Congress* about the costs and benefits of federal regulations pegs cumulative 1996–2006 costs of 91 major regulations at between \$39 billion and \$46 billion. Meanwhile, the estimated range for benefits was \$98 billion to \$484 billion.²

OMB's cost-benefit breakdown incorporates only benefits and costs that agencies or OMB expressed in quantitative and monetary terms. The breakdown omits many categories and cost levels of rules altogether. Cost-benefit analyses are also sensitive to basic assumptions about how regulations translate into benefits. As for an overall cost estimate, W. Mark Crain

of Lafayette College prepared a comprehensive regulatory cost estimate for 2004 for the Small Business Administration.³ This report assessed economic regulatory costs (such as price-and-entry restrictions and "transfer" costs such as price supports, which shift money from one pocket to another); workplace costs; environmental regulatory costs; and paperwork costs (such as tax compliance). Crain found regulatory costs of \$1.113 trillion for 2004. (His estimate updates an October 2001 report that was by Crain and Hopkins and noted regulatory costs of \$843 billion.)⁴

Adjusting the Crain 2004 regulatory costs for 2006 by extrapolating the growth in regulatory costs that occurred between 2000 and 2004 yields a rough estimate of \$1.142 trillion.⁵ Figure 1 breaks down the

Figure 1. 2006 Federal Regulatory Costs, \$1.142 Trillion



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

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

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

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

regulatory cost estimate by categories: economic, environmental, tax compliance, and workplace. Economic costs, the largest category at \$606 billion, include the noted price-and-entry controls on business and losses from economic transfers.⁶ Given that indirect costs—such as the effects of lost innovation or productivity—are not included in Crain’s analysis, those figures could understate the total regulatory burden.⁷

Regulatory benefits are beyond the scope of the Crain analysis, although those benefits would be recognized as offsetting some costs.⁸ The Crain report emphasizes the extent to which regulatory costs impose higher burdens on small firms, where per-employee regulatory costs are higher. Table 2 shows, for the year 2004, how per-employee costs for firms of fewer than 20 workers can be more than 40 percent greater than for larger firms (more than \$7,600 for smaller firms versus \$5,300 for larger ones).⁹

Regulation vs. Government Spending

After nearly three decades of deficit spending, the federal government’s budget was temporarily balanced from FY 1998 through FY 2001. (Washington posted a total surplus of \$127 billion in FY 2001.)¹⁰ In FY 2006, a deficit of \$248 billion was posted on \$2.65 trillion in spending, with no surplus projected until 2012—at which time the Congressional Budget Office (CBO) estimates a \$170 billion surplus.¹¹

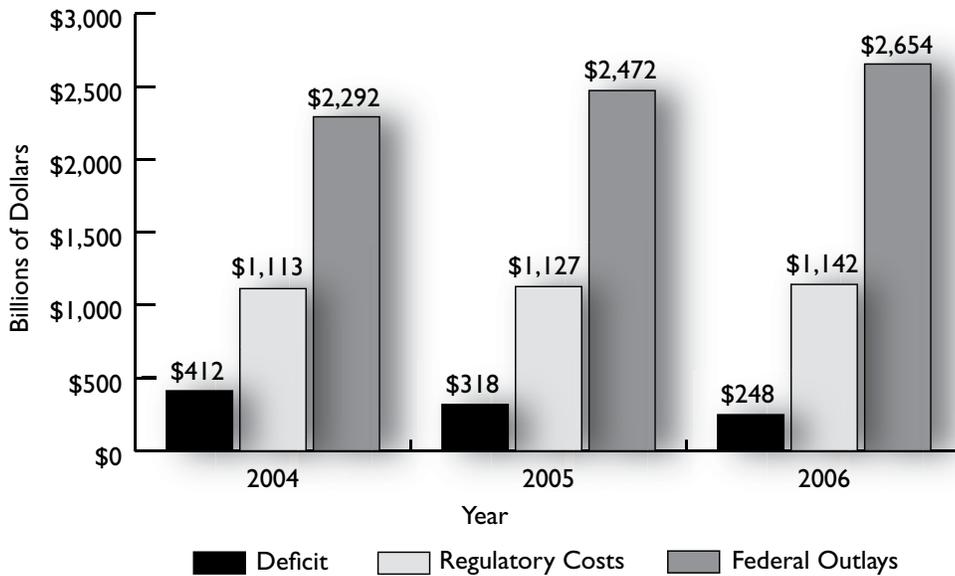
As Figure 2 shows, 2006’s approximate \$1.142 trillion in regulatory costs is equivalent to 43 percent of spending of \$2.654 trillion, and it is more than four times the \$248 billion deficit. Figure 2 also depicts 2004 and 2005 deficits compared with outlays and with Crain’s regulatory cost estimates.¹² Deficit spending, in a manner of speaking, can manifest itself as regulatory compliance costs that go largely unacknowledged by the federal government. Those regulatory costs now approach *one-half* the size of budgeted government.

Regulatory Costs vs. Income Taxes and Corporate Profits

Regulatory costs now exceed revenue from major taxes. As Figure 3 shows, regulatory costs exceed estimated 2006 individual income taxes, which were \$998 billion.¹³ Corporate income taxes, estimated at \$277 billion, are dwarfed by regulatory costs.¹⁴ Regulatory costs surpass even pretax corporate profits—\$1.059 trillion in 2004.¹⁵ To put regulation into further perspective, U.S. regulatory costs of \$1.142 trillion exceed the output of many major national economies. Figure 4 shows that U.S. regulatory costs exceed the entire 2004 GDP of Canada, which stood at \$1.017 trillion. The regulatory burden also exceeded Mexico’s GDP of \$1.054 trillion.¹⁶ For the United States, CBO reported a GDP of \$13.065 trillion for 2006.¹⁷ Total regulatory costs of \$1.142 trillion are equivalent to 9 percent of that. Combining regulatory costs with federal FY 2006 outlays of \$2.654 tril-

U.S. regulatory costs of \$1.142 trillion exceed the entire 2004 GDP of Canada, which stood at \$1.017 trillion.

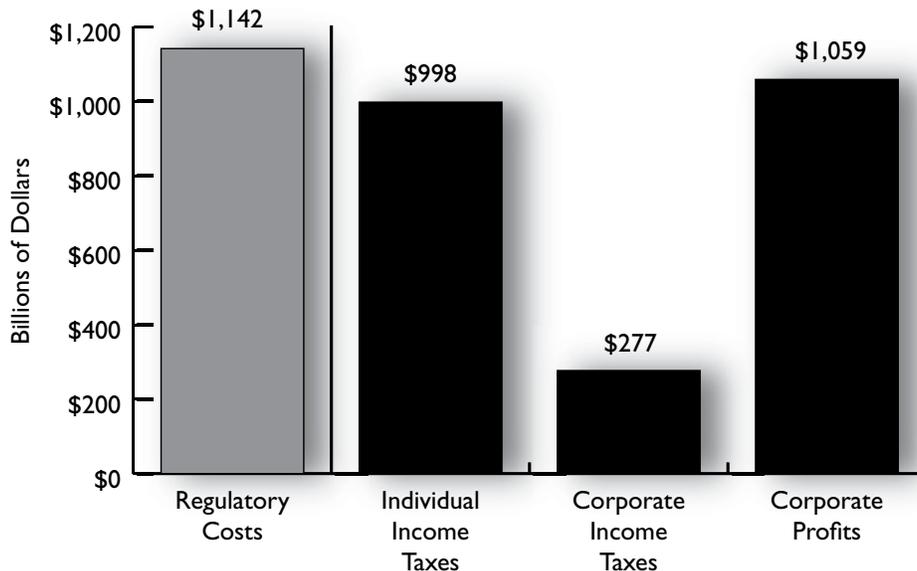
Figure 2. Off-Budget Regulatory Costs Compared with Federal Spending (2004–2006)



Sources: Congressional Budget Office, *The Budget and Economic Outlook, 2005–2007*; W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract no. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>.

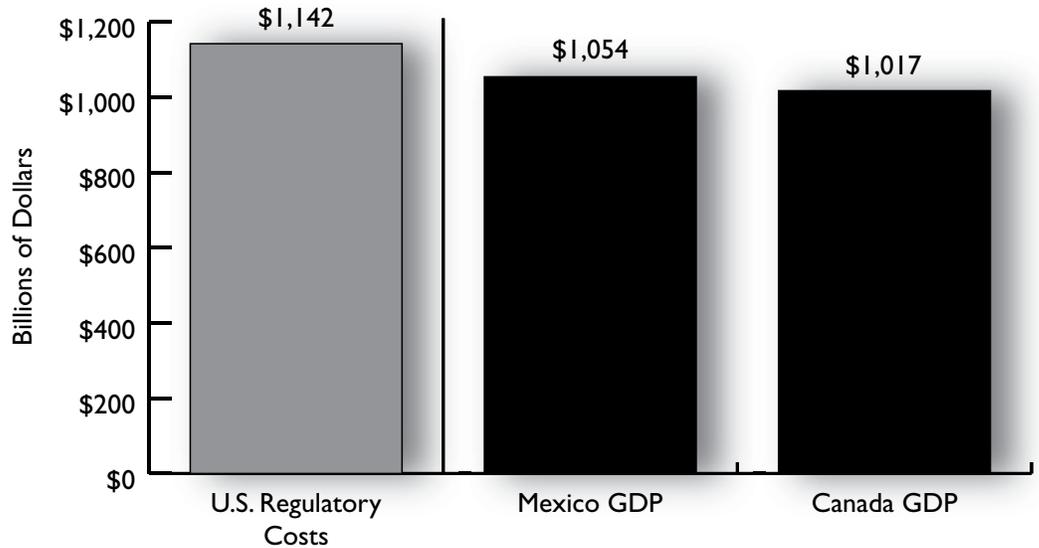
Notes: Regulatory costs for 2005 and 2006 are projected on the basis of average annual increases in regulatory costs between 2000 and 2004 from Crain 2005. Federal deficit and outlay numbers are by fiscal year; regulatory costs are by calendar year.

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



Sources: W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” report prepared for the Small Business Administration, Office of Advocacy, Contract no. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>. Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 464, “Federal Receipts by Source: 1990 to 2006,” p. 31, <http://www.census.gov/prod/2006pubs/07statab/fedgov.pdf>. Profits from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 772, “Corporate Profits Before Taxes by Industry: 2000 to 2004,” p. 514, <http://www.census.gov/prod/2006pubs/07statab/business.pdf>. Profits do not reflect inventory valuation and capital consumption adjustments.

Figure 4. U.S. Regulatory Costs Compared with Mexico's and Canada's GDP



Sources: W. Mark Crain, "The Impact of Regulatory Costs on Small Firms," report prepared for the Small Business Administration, Office of Advocacy, Contract no. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>. GDP figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 1325, "Gross Domestic Product (GDP) by Country: 1995 to 2004," p. 845, <http://www.census.gov/prod/2006pubs/07statab/intlstat.pdf>.

lion shows that the federal government's share of the economy now reaches 29 percent.

Income Taxes and Corporate Pretax Profits

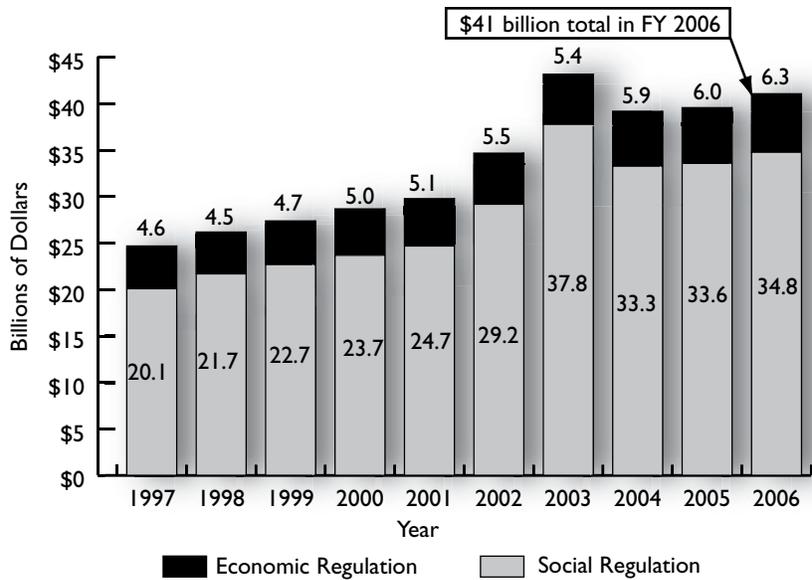
Costs of Administering the Regulatory State

The Crain regulatory cost estimates include compliance costs paid by the public and by state and local governments. But those estimates do not include the costs of administering the regulatory state—the on-budget amounts spent by federal agencies to produce rules and to police regulatory compliance. The Weidenbaum Center at Washington University in St. Louis and the Mercatus Center at George Mason University together examined the federal budget and excerpt and compiled the administrative costs of developing and enforcing regulations. Because those funds are amounts that taxpayers pay to support agencies' administrative budgets, rather than com-

pliance costs paid by the parties they regulate, the funds are disclosed in the federal budget. FY 2006 enforcement costs incurred by federal departments and agencies stood at \$41 billion (constant 2005 dollars), a slight increase over the previous year (Figure 5).¹⁸ Of that amount, \$6.3 billion was spent administering economic regulation. The larger amount spent for writing and enforcing social and environmental regulations was \$34.8 billion. Those enforcement costs help complete the picture of the regulatory state. Adding the \$41 billion in administrative costs tabulated by the Weidenbaum Center and Mercatus Center to the Crain \$1.142 trillion estimate for compliance costs brings the total 2006 regulatory burden to \$1.183 trillion.

Estimated full-time-equivalent employment staffing reached 241,029 in FY 2006, according to Weidenbaum and Mercatus.¹⁹ That figure is 40 percent above staffing levels in 2001, largely owing to the newly created Transportation Security Administration's one-time hiring of thousands of airport screening personnel since 2001.

Figure 5. Agency Enforcement Budgets, 1997–2006
(billions of constant 2004 dollars)



Source: Susan Dudley and Melinda Warren, “Moderating Regulatory Growth: An Analysis of the U.S. Budget for Fiscal Years 2006 and 2007,” *Regulators’ Budget Report 28*, published jointly by the Weidenbaum Center and the Mercatus Center, May 2006, p. 25, http://www.mercatus.org/repository/docLib/20060511_Moderating_Regulatory_Growth_An_Analysis_of_the_US_Budget_for_Fiscal_Years_2006_and_2007_Dudley_and_Warren_May_2006_Final_as_Posted.pdf.

Note: Original 2000 constant dollars are adjusted by the change in the consumer price index between 2000 and 2005, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 706, “Consumer Price Indexes (CPI-U) by Major Groups: 1990 to 2005,” p. 469, <http://www.census.gov/prod/2006pubs/07statab/prices.pdf>.

Federal Register Analysis

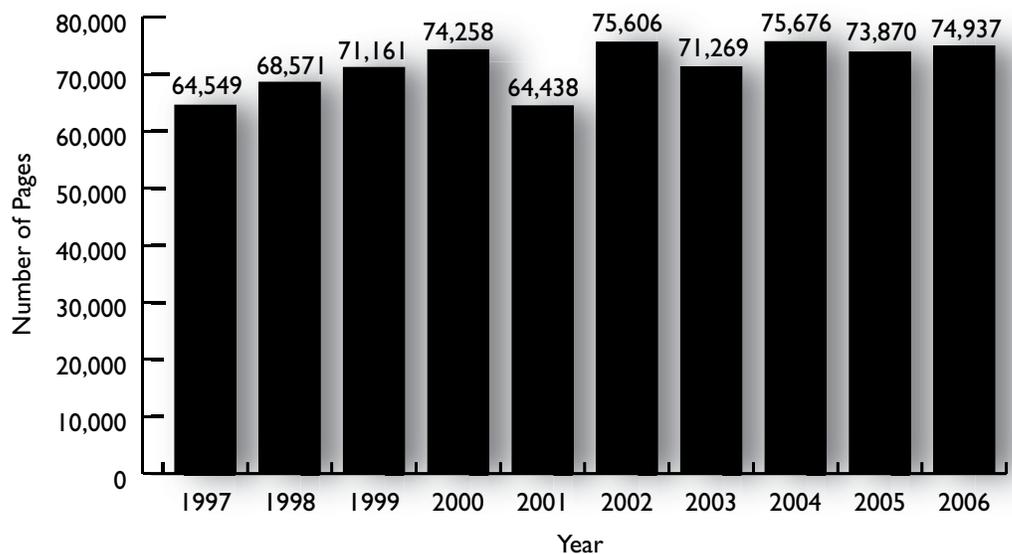
Tens of Thousands of Federal Register Pages

The *Federal Register* is the daily depository of all proposed and final federal rules and regulations. The number of pages in the *Register* is probably the most frequently cited measure of the scope of regulation. Yet serious problems exist with using the number of pages alone as a proxy for regulation. For example, several thousand rules from 2002 pertain to the Microsoft settlement—not a very good gauge of what was going on government-wide. Many rules now pertain to homeland security, a worthy pursuit in general regardless of fights over specifics. And even in cases in which OMB issues orders to reduce regulation and in which agencies follow procedures

to lessen rules, the posting of lengthy notices in the *Federal Register* is required. And, of course, there are the obvious problems with relying on page counts: The wordiness of rules will vary, thus affecting the number of pages and obscuring the real effects of the underlying rules. A short rule could be costly and a long one relatively cheap. Furthermore, the Register contains administrative notices, corrections, presidential statements, and other material. And thousands of blank pages appear as a result of the Government Printing Office's imperfect prediction of the number of pages an agency will require.

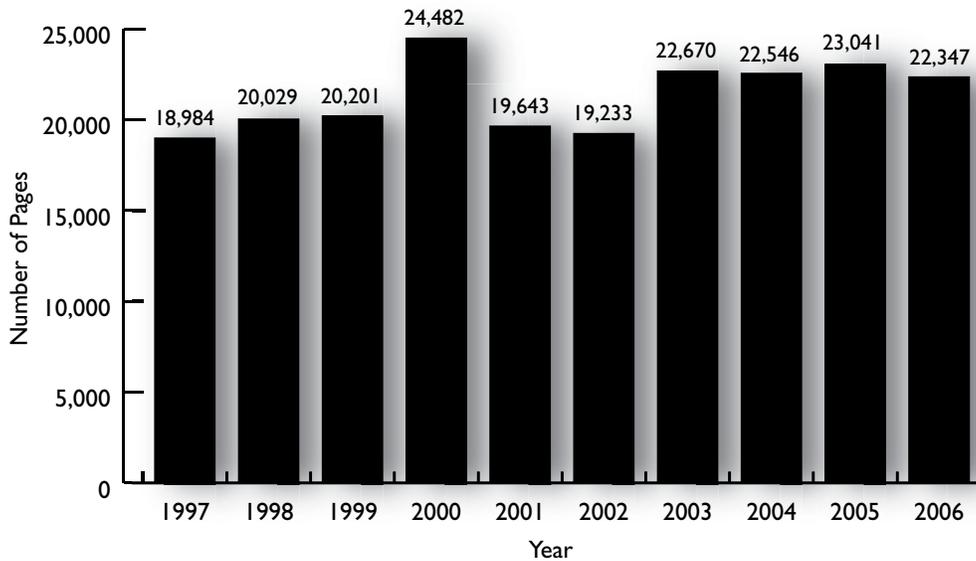
Nonetheless, it is surely worthwhile to track the *Register's* growth through count of those pages, provided the appropriate caveats are kept in mind. As Figure 6 shows, at year-

Figure 6. Number of Federal Register Pages, 1997–2006



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

Figure 7. *Federal Register* Pages Devoted to Final Rules, 1997–2006



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

end 2006, the number of pages stood at 74,937, an increase of 1.4 percent from the year before when the count stood at 73,870. Both the past two years are down from 2004, which attained a record-high 75,676.

The runner-up page-count record had been 75,606 in 2002, the year the Microsoft settlement those inflated pages. During President Bill Clinton's last year (2000), when charges were made of issuing "midnight regulations" before President George W. Bush's arrival, pages topped 74,000.²⁰ But page counts have remained high; from 1997 to 2006, the overall page count increased 16 percent. (For a history of *Federal Register* page totals since 1936, see Appendix: Historical Tables, Part A.)

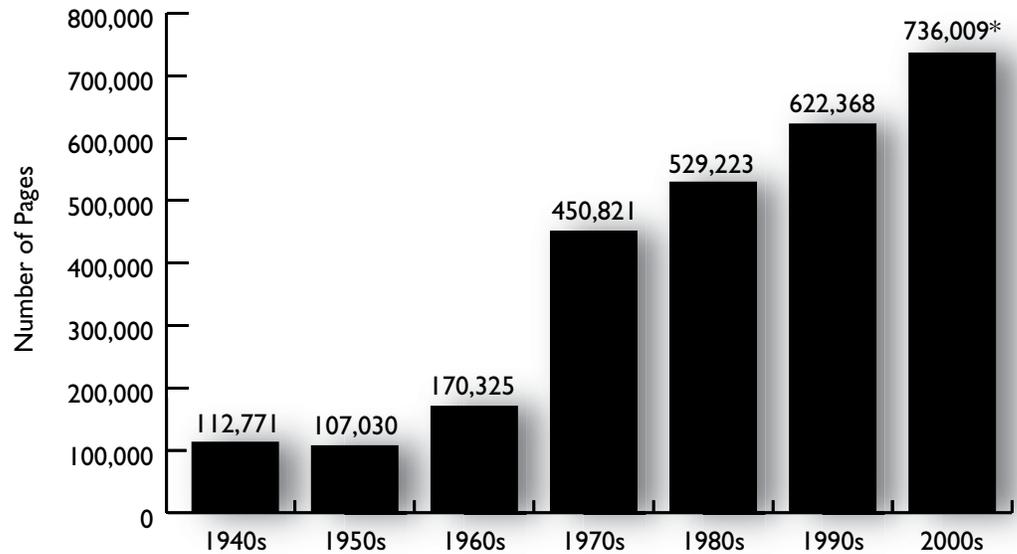
In terms of page counts, regulation and agency activity are at record levels, despite dominance of Congress by presumably more deregulatory Republicans following the 1994 election. The year 2006 marks the end of that era with the return to Democratic control of Congress. Yet apart from 2001, the last time the number of *Federal Register* pages fell notably was in 1995, when the new influx of Republican congressional reformers

made the *Federal Register's* bulk a political issue. (A partial federal government shutdown in 1995, which slowed the promulgation of new regulations for a time, also contributed to the drop that year.)

Overall 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 may be a bit more informative, because that approach omits pages devoted to proposed rules, agency notices, corrections, and presidential documents. Here, there is somewhat more encouraging news: Over the past year, the pages of final rules dropped by 3 percent—from 23,041 to 22,347 (Figure 7). Despite some substantial ups and downs during the decade, the *Federal Register* pages devoted to final rules overall have increased by 18 percent since 1997. The drop right after Clinton's final year in office was noteworthy: The 2000 count of 24,482 pages under Clinton was the highest since 1976, when the *Federal Register* page count breakdown by category was first reported. The 2000 count was up 21 percent over 1999 (possibly resulting from an effort by President Clinton to

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

Figure 8. New *Federal Register* Pages per Decade



* Projection based on seven-year average.

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

push a backlog of rules through before the arrival of the Bush Administration). Pages rebounded in 2003 and have remained above 22,000 since.

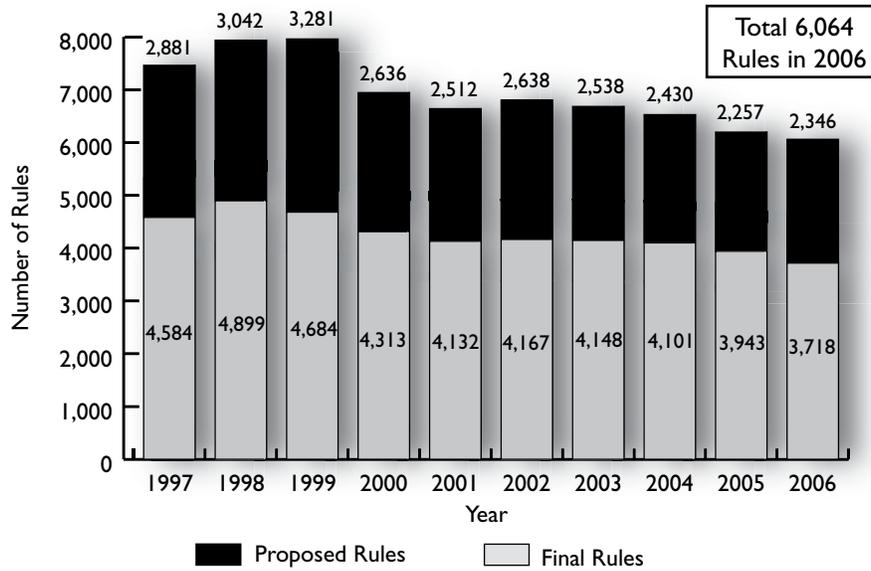
Another way of looking at *Federal Register* trends is pages per decade (see Figure 8). During the 1990s, the total number of *Register* pages published was 622,368, whereas the total number published during the 1980s was 529,223. (The busiest year in the 1980s was the 1980 peak of 73,000 pages.) So far, in the first six years of the 21st century,²¹ the average is 73,600, which, extrapolated across the remainder of the decade, implies that 736,000 total pages will ultimately appear—an 18 percent increase over the 1990s. Although the final codification of general and permanent rules as ultimately realized in the Code of Federal Regulations (CFR) is considerably more modest in terms of numbers—if not in costs—today's CFR contains 40 percent more pages than 1980's CFR. Since 1980, the CFR has grown from 102,195 pages to 144,040. By contrast, in 1960, there were only 22,877 pages.

One should keep in mind that the earlier caveats, the higher overall number of pages compared with past decades, and a stream of pages devoted to final rules averaging well over 22,000 annually actually signify higher levels of final rule costs and burdens.

Number of Proposed and Final Rule Documents in the Federal Register

The actual numbers of proposed and final rules published in the *Federal Register* merit attention. As Figure 9 shows, in 2006 the total number of proposed and final rules published fell to 6,064 from 6,200 in 2005, a 2 percent decline. The number of rules actually finalized by federal agencies in 2006 dropped also; from 3,943 to 3,718, a 6 percent decline. The number of final rules currently being published is lower than throughout the 1990s; the average number of annual regulations in the 1990s was 4,596. So far, the average for the current decade (2000–2006) is 4,074. (For the numbers of proposed and final rules and

Figure 9. Number of Rules Published in the Federal Register, 1997–2006



other documents issued in the *Federal Register* since 1976, see Appendix: Historical Tables, Part B.)

The cumulative effect of such regulation can matter a great deal despite recent declines. The bottom line is that the annual outflow

of some 4,000 final rules has meant that well over 48,000 final rules were issued from 1995 to 2006—that is, since the Republican takeover of Congress. While the costs of those rules can vary tremendously, that number represents a substantial torrent of rules and regulations.

Analysis of the Regulatory Plan and Unified Agenda

4,052 New Rules in the Pipeline

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

The *Agenda* lists federal regulatory actions at several stages: prerule, proposed and final rules, actions completed during the past few months, and anticipated longer-term rule-makings. The *Agenda* functions as a cross-sectional snapshot of rules moving through the pipeline. Therefore, the rules it contains

may carry over at the same stage from one year to the next, or they may reappear in subsequent *Agendas* at different stages. The *Agenda's* 4,000-plus rules primarily affect the private sector, but many also affect state and local governments and the federal government itself.

The 2006 *Agenda* finds federal agencies, departments, and commissions at work on 4,052 regulations from the prerule to the just-completed stages.²² This decrease is a very slight from 2005's 4,062 (see Figure 10). The number of rules in the *Agenda* peaked at 5,119—12 years ago in 1994—but the count has still remained at well above 4,000 ever since. (For a history of numbers of rules in the *Agenda* since 1983, see Appendix: Historical Tables, Part C.)²³

Figure 10. Total Agency Rules in the Unified Agenda Pipeline, 1997–2006

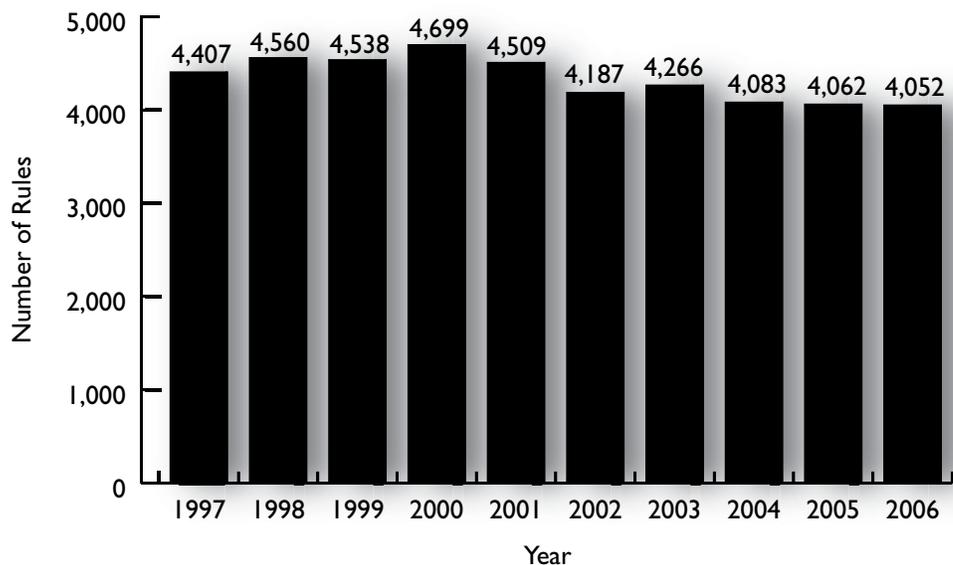


Table 3 breaks down the 4,052 rules according to issuing department, agency, or commission. Each year, a relative handful of agencies account for a large number of the rules produced. The five departments and agencies listed in Table 4—the departments of Treasury, Agriculture, Interior, and Commerce, along with the EPA—were the biggest rule makers. Those “top five,” with 1,791 rules among them, account for 44 percent of all rules in the *Agenda* pipeline. (For numbers of rules by department and agency from previous editions of the *Unified Agenda*, see Appendix: Historical Tables, Part D.)

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

Department of Agriculture

- Mandatory country-of-origin labeling of beef, pork, lamb, fish, and peanuts
- Inspection regulations for eggs and egg products
- Performance standards for ready-to-eat meat and poultry products
- Regulations concerning importation of unmanufactured wood articles (that is, solid-wood packing material)
- Bovine spongiform encephalopathy: minimal risk regions and importation of commodities

Department of Health and Human Services

- Substances prohibited from use in animal food or feed
- Prevention of *Salmonella enteritidis* in shell eggs
- Current good manufacturing practice in manufacturing, packing, or holding dietary ingredients and dietary supplements
- Registration of food and animal feed facilities
- Food labeling: trans-fatty acids in nutrition labeling, nutrient content claims, and health claims

Table 3. *Unified Agenda* Entries by Department and Agency

	Total Rules
Dept. of Agriculture	311
Dept. of Commerce	302
Dept. of Defense	143
Dept. of Education	16
Dept. of Energy	63
Dept. of Health & Human Services	257
Dept. of Homeland Security	280
Dept. of Housing & Urban Development	92
Dept. of the Interior	305
Dept. of Justice	139
Dept. of Labor	93
Dept. of State	28
Dept. of Transportation	215
Dept. of the Treasury	501
Dept. of Veterans Affairs	77
Agency for International Development	8
Architectural & Transportation Barriers Compliance Board	4
Commission on Civil Rights	1
CPBSD*	6
Corporation for National & Community Service	11
Court Services/Offender Supervision, D.C.	1
Environmental Protection Agency	372
Equal Employment Opportunity Commission	8
Federal Mediation & Conciliation Service	1
General Services Administration	34
National Aeronautics & Space Administration	15
National Archives & Records Administration	21
Institute of Museum & Library Services	1
National Endowment for the Arts	2
National Endowment for the Humanities	3
National Science Foundation	2
Office of Federal Housing Enterprise Oversight	8
Office of Government Ethics	8
Office of Management & Budget	2
Office of Personnel Management	93
Peace Corps	6
Pension Benefit Guaranty Corporation	13
Railroad Retirement Board	6
Selective Service System	1
Small Business Administration	32

(continued on next page)

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

Social Security Administration	53
Federal Acquisition Regulation	42
Commodity Futures Trading Commission	14
Consumer Product Safety Commission	24
Farm Credit Administration	19
Farm Credit System Insurance Corporation	1
Federal Communications Commission	139
Federal Deposit Insurance Corporation	24
Federal Energy Regulatory Commission	47
Federal Housing Finance Board	8
Federal Maritime Commission	3
Federal Reserve System	13
Federal Trade Commission	16
National Credit Union Administration	29
National Indian Gaming Commission	16
Nuclear Regulatory Commission	45
Securities & Exchange Commission	71
Surface Transportation Board	7
TOTAL	4,052

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

Source: Compiled from the "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 71, No. 237, December 11, 2006.

- 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

Department of Homeland Security

- CAPPS II (the Computer Assisted Passenger Prescreening System), providing government access to passenger reservation information
- Secure Flight Program
- U.S.-VISIT (the United States Visitor and Immigrant Status Indicator Technology program), which is authorized to collect biometric data from additional travelers and to expand to the 50 most highly trafficked land border ports

Department of Justice

- Nondiscrimination on the basis of disability in public accommodations and commercial facilities

Department of Labor

- Occupational exposure to crystalline silica
- Rules regarding confined spaces in construction: preventing suffocation and explosions in confined spaces
- 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
- Occupational exposure to tuberculosis

Department of Energy

- Energy-efficiency standards for residential furnaces, boilers, and mobile home furnaces; electric distribution transformers; certain commercial central air-con-

Table 4. The Top Rule-Producing Agencies, 2006

Agency	Number of Regulations
1. Department of the Treasury	501
2. Environmental Protection Agency	372
3. Department of Agriculture	311
4. Department of the Interior	305
5. Department of Commerce	302
Total from Top Five Agencies	1,791

ditioning units and heat pumps; clothes dryers and dishwashers; pool heaters and direct heating equipment; fluorescent and incandescent lamps; central air conditioners and heat pumps

Department of Transportation

- Reforming of the automobile fuel economy standards program
- Aging aircraft safety
- Upgrade of head restraints in vehicles
- Rear center lap/shoulder belt requirement
- Registration and training for operators of propane tank filling equipment
- Monitoring systems for improved tire safety and tire pressure
- Automotive regulations for car lighting, door retention, brake hoses, daytime running-light glare, side impact protection
- Minimum training requirements for operators and training instructors of multiple trailer combination trucks
- Hours of service, rest, and sleep for truck drivers

Environmental Protection Agency

- Clean air visibility, mercury, and ozone implementation rules
- 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

- Emissions from nonroad spark-ignition

Consumer Product Safety Commission

- Flammability standard for upholstered furniture
- Banning of certain backyard play sets
- Product registration cards for products intended for children
- Proposed standard to address open-flame ignition of mattresses and bedding

Federal Communications Commission

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

Department of Housing and Urban Development

- Revision of manufactured home construction and safety standards to revise location of smoke alarms
- Regulations within the Real Estate Settlement Procedures Act pertaining to mortgages and closing costs
- Increased fair market rents for certain areas

Table 5. 139 Rules in the Pipeline Expected to Cost More Than \$100 Million Annually

Department of Agriculture	15
Department of Commerce	3
Department of Education	2
Department of Energy	14
Department of Health & Human Services	31
Department of Housing & Urban Development	1
Department of Homeland Security	18
Department of Justice	3
Department of the Interior	1
Department of Labor	8
Department of State	1
Department of Transportation	8
Department of the Treasury	3
Department of Veterans Affairs	1
Environmental Protection Agency	17
Consumer Product Safety Commission	2
Federal Communications Commission	8
Nuclear Regulatory Commission	1
Social Security Administration	2
TOTAL	139

The Agenda classifies a subset of its 4,052 rules as “economically significant,” meaning that agencies anticipate yearly economic impacts of at least \$100 million apiece.

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

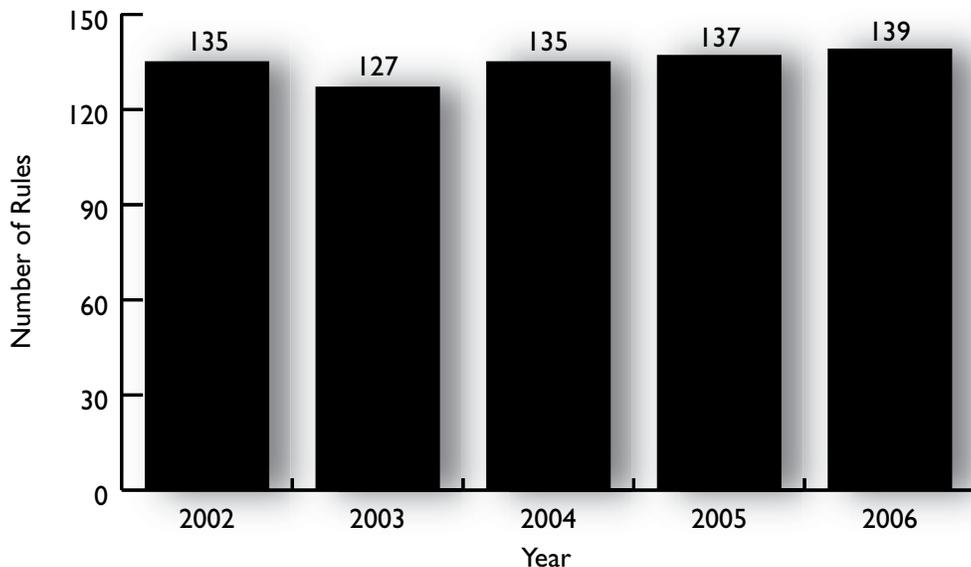
The *Agenda* classifies a subset of its 4,052 rules as “economically significant,” meaning that agencies anticipate yearly economic impacts of at least \$100 million apiece. Those impacts generally mean increased costs, although occasionally an economically significant rule is intended to reduce costs. As Table 5 shows, 139 new economically significant rules are under consideration by 19 separate departments and agencies at the prerule, proposed rule, final rule, long-term, and recently completed stages. (That number is a slight increase over the 137 high-cost rules in 2005—See Figure 11).

The high-cost rules are scattered among the 4,052 rules in the *Agenda*. Because each will have an annual impact of at least \$100 million, those rules can be expected to impose,

at a minimum, total annual costs of \$13.9 billion (139 rules multiplied by \$100 million). (For a full list of the 139 economically significant rules, see Appendix: Historical Tables, Part E.)

A breakdown of the \$14 billion in regulatory costs is never presented directly for each rule in the *Agenda*. The costs represent a floor and are found by combing through the document. Rather than accumulate and summarize regulatory costs for the readers’ benefit, each *Agenda* entry indicates whether or not a rule is economically significant and occasionally provides additional cost data from agency regulatory impact analyses. Note also that even though the \$14 billion in anticipated costs represents a lower boundary for regulatory costs, it is not a one-time cost but a recurring annual cost that must be added to prior years’ costs and to costs to come in the future. Figure 11 also shows economically significant rules from the October *Agendas* for the 2002–2006 period. As noted, the

Figure 11. Economically Significant Rules in the Agenda Pipeline, 2002–2006



139 major rules in 2006 represent a slight increase over 2005.

It should be noted that agencies are not required to limit their activity to what they publish in the *Agenda*: “*The Regulatory Plan and the Unified Agenda* do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.”²⁴ Finally, the fact that policy makers and analysts pay most attention to economically significant rules should not lull them into ignoring the remaining bulk of rules in the yearly pipeline. In 2006, 3,913 federal rules were not considered economically significant by the government (4,052 total rules minus the 139 economically significant ones). But that opinion doesn’t mean that many of those rules aren’t economically significant in the ordinary sense of the term. Any of the rules may cost up to \$99 million and still evade the economically significant label.

The Regulatory Flexibility Act requires that federal agencies assess the effects of their rules on small businesses. The *Agenda* notes that “the Regulatory Flexibility Act...requires that agencies publish regulatory agendas identifying those rules that may have a significant

economic impact on a substantial number of small entities.”²⁵ As Figure 12 shows, rules significantly affecting small business have been flat over the past three years. Since 2002, the number of rules affecting small business dropped by 12 percent, from 892 to 787.

Table 6 breaks out the 2006 *Agenda*’s 787 rules affecting small business by department, agency, and commission. Four of them, the departments of Commerce, Health, and Human Services and the Federal Communications Commission (FCC) and the EPA, account for 423—or 54 percent—of the rules affecting small business. (For the numbers of rules affecting small business broken down by department and agency for *Agendas* since 1996, see Appendix: Historical Tables, Part F.) The proportion of total rules affecting small business, as noted in Table 6, stands at 19 percent. (By contrast, back in 1996, 16.1 percent of rules affected small business.)

Federal Regulations Affecting State and Local Governments

Ten Thousand Commandments primarily tracks regulations imposed on the private

The fact that policy makers and analysts pay most attention to economically significant rules should not lull them into ignoring the remaining bulk of rules in the yearly pipeline.

Figure 12. Rules That Affect Small Business,
2002–2006

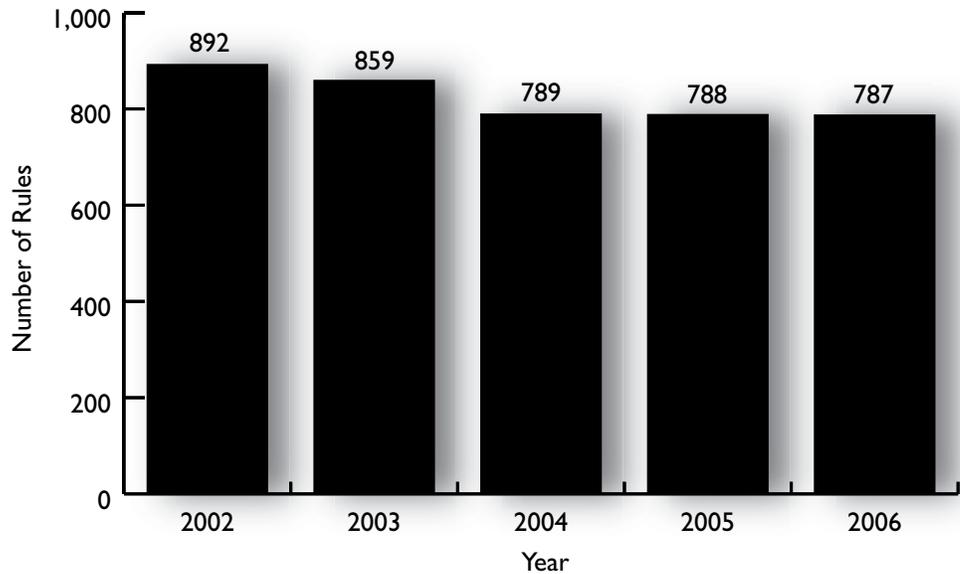


Table 6. Unified Agenda Entries Affecting Small Business by
Department, Agency, and Commission, December 2006

	Number Affecting Small Business				% Affecting Small Business
	Total Rules	RFA Required	RFA Not Required	Total	
Dept. of Agriculture	311	27	40	67	21.5%
Dept. of Commerce	302	94	17	111	36.8%
Dept. of Defense	143	1	13	14	9.8%
Dept. of Education	16		1	1	6.3%
Dept. of Energy	63			0	0.0%
Dept. of Health & Human Services	257	56	53	109	42.4%
Department of Homeland Security	280	12	31	43	15.4%
Dept. of Housing & Urban Development	92	2	2	4	4.3%
Dept. of the Interior	305		29	29	9.5%
Dept. of Justice	139	6	1	7	5.0%
Dept. of Labor	93	5	21	26	28.0%
Dept. of State	28			0	0.0%
Dept. of Transportation	215	21	39	60	27.9%
Dept. of the Treasury	501	2	35	37	7.4%
Dept. of Veterans Affairs	77			0	0.0%
Agency for International Development	8		1	1	12.5%
Architectural & Transportation Barriers Compliance Board	4			0	0.0%
Commission on Civil Rights	1			0	0.0%
CPBSD*	6			0	0.0%
Corporation for National & Community Service	11		1	1	9.1%
Court Services/Offender Supervision, D.C.	1			0	0.0%

(continued on next page)

Table 6. Unified Agenda Entries Affecting Small Business by Department, Agency, and Commission, December 2006 (continued)

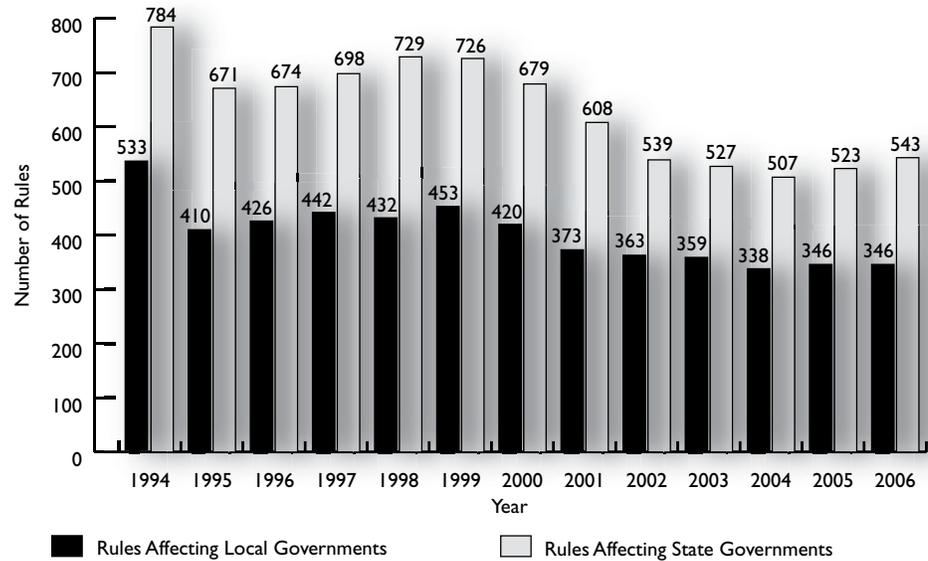
	Number Affecting Small Business				% Affecting Small Business
	Total Rules	RFA Required	RFA Not Required	Total	
Environmental Protection Agency	372	7	88	95	25.5%
Equal Employment Opportunity Commission	8		3	3	37.5%
Federal Mediation & Conciliation Service	1			0	0.0%
General Services Administration	34	1	2	3	8.8%
National Aeronautics & Space Administration	15			0	0.0%
National Archives & Records Administration	21			0	0.0%
Institute of Museum & Library Services	1			0	0.0%
National Endowment for the Arts	2			0	0.0%
National Endowment for the Humanities	3			0	0.0%
National Science Foundation	2			0	0.0%
Office of Federal Housing Enterprise Oversight	8			0	0.0%
Office of Government Ethics	8			0	0.0%
Office of Management & Budget	2			0	0.0%
Office of Personnel Management	93			0	0.0%
Peace Corps	6			0	0.0%
Pension Benefit Guaranty Corporation	13			0	0.0%
Railroad Retirement Board	6			0	0.0%
Selective Service System	1			0	0.0%
Small Business Administration	32	19	2	21	65.6%
Social Security Administration	53		1	1	1.9%
Federal Acquisition Regulation	42	4	1	5	11.9%
Commodity Futures Trading Commission	14		1	1	7.1%
Consumer Product Safety Commission	24			0	0.0%
Farm Credit Administration	19			0	0.0%
Farm Credit System Insurance Corporation	1			0	0.0%
Federal Communications Commission	139	102	6	108	77.7%
Federal Deposit Insurance Corporation	24			0	0.0%
Federal Energy Regulatory Commission	47			0	0.0%
Federal Housing Finance Board	8			0	0.0%
Federal Maritime Commission	3		3	3	100.0%
Federal Reserve System	13		3	3	23.1%
Federal Trade Commission	16		13	13	81.3%
National Credit Union Administration	29	2	2	4	13.8%
National Indian Gaming Commission	16			0	0.0%
Nuclear Regulatory Commission	45	1		1	2.2%
Securities & Exchange Commission	71	15	1	16	22.5%
Surface Transportation Board	7			0	0.0%
TOTAL	4,052	377	410	787	19.4%

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

Source: Compiled from "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, Vol. 71, No. 237, December 11, 2006.

Note: RFA = regulatory flexibility analysis.

Figure 13. Rules Affecting State and Local Governments, 1994–2006



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

Congress passed the Unfunded Mandates Act in 1995 as a means of getting lawmakers to pay closer attention to legislative activity’s effect on the states.

sector. However, state and local officials’ realization during the 1990s that their own priorities were being overridden by federal mandates generated additional impulse in regulatory reform. As a result, Congress passed the Unfunded Mandates Act in 1995 to provide a point of order against such mandates as a means of getting lawmakers to pay closer attention to legislative activity’s effect on the states.

As Figure 13 shows, agencies report that 346 of the 4,052 rules in the 2006 Agenda will have effects on local governments, the same as in 2005.²⁶ Over the years since the passage of the Unfunded Mandates Act, overall rules affecting local governments have fallen by 35 percent, from 533 to 346. Figure 13 also shows that the total number of regulatory actions affecting state governments rose by 4 percent, from 523 to 543 over the past year. Despite those recent upticks since passage of the unfunded mandates legislation, the count has dropped from 784 to 543, a decline of 31 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 G.)

Government Accountability Office Database on Regulations

The various reports on regulatory measures serve different purposes. The *Federal Register* shows the aggregate number of proposed and final rules. The *Agenda* reveals the number of rules at various stages in the regulatory pipeline. Under the 1996 Congressional Review Act (CRA), agencies are required to submit reports to Congress on their “major” rules—typically those costing \$100 million or more. Owing to such reporting, one can now more easily observe which of the thousands of final rules that agencies issue each year are major and which agencies are producing the rules.²⁷

The Government Accountability Office (GAO) reports that the CRA gives Congress a chance to review a rule for 60 legislative days, and, if desired, to pass a resolution of disapproval rejecting the rule. But despite

Table 7. GAO Reports on Major Rules, 1998–2005*

	1998	1999	2000	2001	2002	2003	2004	2005
Environmental Protection Agency	9	5	5	4	1	3	7	3
Department of the Interior	5	4	10	8	7	7	8	3
Federal Communications Commission	17	5	7	2	4	1	4	1
Health and Human Services	18	7	13	19	12	18	22	11
Department of Energy	0	0	3	3	1	0	0	0
Securities and Exchange Commission	5	5	6	2	2	5	2	4
Department of Agriculture	4	5	12	9	7	5	7	6
Nuclear Regulatory Commission	2	1	2	1	1	1	1	1
Department of Transportation	1	4	3	3	6	4	3	3
Department of Homeland Security	n/a	n/a	n/a	n/a	n/a	2	1	2
Department of Justice	1	0	0	2	5	0	1	1
Federal Reserve System	0	0	1	0	0	1	1	0
Social Security Administration	0	3	1	1	0	0	0	0
Department of Housing & Urban Dev.	0	1	2	1	0	0	1	0
Department of Labor	2	0	5	3	1	1	1	1
Department of Commerce	1	2	0	1	0	0	1	0
Pension Benefit Guaranty Corp.	1	0	0	0	0	0	0	0
Department of Treasury	2	0	0	0	0	0	0	1
Department of Defense	1	1	0	2	2	0	0	1
Department of Education	0	1	0	0	0	0	0	0
National Credit Union Administration	0	1	0	0	0	0	0	0
Emergency Steel Guarantee Loan Board	0	1	0	0	0	0	0	0
Small Business Administration	1	0	1	1	0	0	0	1
Federal Trade Commission	0	0	1	0	0	0	0	1
Architectural Barriers Compliance Board	0	0	0	1	0	0	1	0
Federal Emergency Management Agency	0	0	0	3	1	0	0	0
Federal Acquisition Regulation	0	0	0	1	0	0	0	0
Department of Veterans Affairs	0	0	0	3	1	2	0	0
Office of Management and Budget	0	0	0	1	0	0	0	0
Office of Personnel Management	0	0	1	0	0	1	0	0
Various agencies; HIPAA* implementation	0	0	0	1	0	0	0	0
TOTALS	70	46	73	72	51	51	61	40

*2005 only through September 23.

Source: Compiled from GAO data.

Note: HIPAA = Health Insurance Portability and Accountability Act; n/a = not applicable.

the issuance of thousands of rules since the CRA's passage—among them many dozens of major ones—only one has been rejected: the Labor Department's rule on workplace repetitive-motion injuries in early 2001. As can be seen in Table 7, which is based on

the GAO database, the number of final major rules issued by agencies stood at 40 as of September 23, 2005, a level comparable to earlier years. The department of Health and Human Services and Interior and the EPA continue to be among the most active.

Regulation and the FCC

Today's vibrant, robust, and duplicative communications markets are not fragile instruments that require fine-tuning from government bodies.

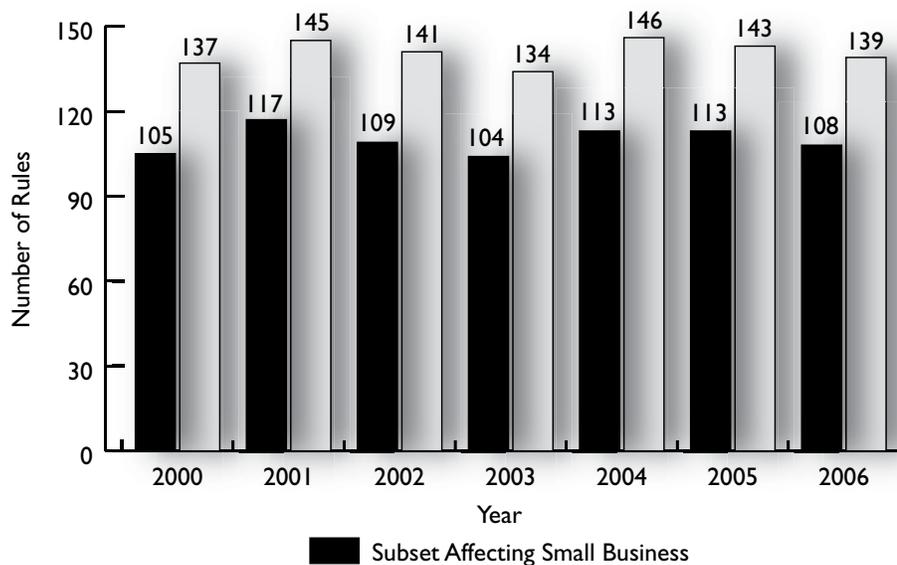
Although it is by no means the heaviest regulator (it's equaled or surpassed in the number of economically significant rules by seven other agencies),²⁸ the Federal Communications Commission is worth singling out for review in today's information economy. The FCC spent an estimated \$365 million to enforce regulation during FY 2006. (EPA spent vastly more at \$5.4 billion, accounting for some 12 percent of the total expected to be spent by all the regulatory agencies.)²⁹

Of the 4,052 rules in the 2006 *Unified Agenda* pipeline, 139, or a bit more than 3 percent, were in the works at the FCC. The level of rules from the FCC has been rather flat since 2000 (Figure 14). Rules dropped by 3 percent over the past year, moving from 143 to 139.

Also shown in Figure 14 is the subset of FCC rules that register some effect on small business. Since 2000, that category of rules has also remained flat, moving from 105 to 108.

Despite massive innovations in telecommunications and in customized, consumer-oriented, and user-driven multimedia, and despite the obsolete nature of the FCC's original mandate to police allegedly public airwaves, an air of paternalism remains at the Federal Communications Commission. Today's vibrant, robust, and duplicative communications markets are not fragile instruments that require fine-tuning from government bodies. Communications markets do not harass consumers in a manner requiring endless rulemaking.

Figure 14. Number of FCC Rules, 2000–2006



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

Nonetheless, now on tap is a new FCC notice of inquiry to examine both the broadband industry practices and the applicability of Net neutrality to the communications sector. (Meanwhile the FCC held its own February two-day workshop pursuing its own investigation into net neutrality.)³⁰ Far from being deregulatory in outlook, FCC commissioners are seeking new rules for multi-cast must-carry regulation, cable à la carte, media ownership restrictions, and indecency regulation. Violence in video games and proposals for wireless Net neutrality also occupy the turf-building agency.

Of the 139 economically significant rules in the works across the entire federal government, eight of them are from the FCC. The agency's total number of economically significant rules in the Agenda dropped

from nine to eight (refer to Table 5). By and large, those rules are the same batch of rules in play both years. The eight economically significant FCC rules appear in Box 1. Such sweeping rulemakings (and the 131 other FCC rules in the *Agenda* pipeline) present opportunities for either liberalization of telecommunications or avenues for new centralized regulatory oversight and protracted legal battles. Liberalizing communications markets requires a conscious effort to shift "regulation" or competitive discipline from the FCC to competitive markets. Today's debates do not reflect that mindset, unfortunately. The overall level of rules at the FCC and the number of that agency's rules affecting small business are considerably larger today than they were 10 years ago, as can be gleaned from the historical tables in the appendix.

Liberalizing communications markets requires a conscious effort to shift "regulation" or competitive discipline from the FCC to competitive markets.

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

- Broadband over power lines (BPL): "to promote the development of BPL systems by removing regulatory uncertainties for BPL operators and equipment manufacturers while ensuring that licensed radio services are protected from harmful interference."
- Digital television (DTV): "to apply the DTV tuner requirement to all TV receivers on an advanced schedule that will allow a more rapid completion of the DTV transition while providing manufacturers with adequate time to include DTV tuners in all their TV products."
- Earth station licensing and allocation GHz bands for broadcast satellite service use: "addresses how the 17.7–19.7 GHz band is to be shared among various services, including the Fixed Satellite Service, the Fixed Services, and the Broadcast Satellite Service...also addresses the blanket licensing of Fixed Satellite Service Earth Stations in the Ka-band. Finally, it addresses a new allocation for the Broadcast Satellite Service."
- Service rules for the 746–764 and 776–794 MHz bands, and revisions to Part 27 of the commission's rules: "adopts service rules for licensing and auction of commercial services in spectrum in the 700 MHz band to be vacated by UHF television licensees."
- Transfer of the 3650 through 3700-MHz band from federal government use: "proposes to allow unlicensed devices to operate in all, or part, of the 3650 MHz band at higher power levels than usually permitted for unlicensed services. These devices would be subject to smart (or cognitive) requirements and other safeguards designed to prevent interference to the licensed FSS earth stations now resident in the band."
- 2000 biennial regulatory review spectrum aggregation limits for Commercial Mobile Radio Services: "The Commission has adopted a final rule in a proceeding reexamining the need for Commercial Mobile Radio Services spectrum aggregation limits."
- Hearing aid-compatible telephones: "modifies exemptions for wireless phones under the Hearing Aid Compatibility Act of 1988 to require that digital wireless phones be capable of being effectively used with hearing aids. It finds that modifying the exemption will extend the benefits of wireless telecommunications to individuals with hearing disabilities—including emergency, business, and social communications—thereby increasing the value of the wireless network for all Americans."
- Internet protocol-enabled services: "The notice seeks comment on ways in which the Commission might categorize IP-enabled services for purposes of evaluating the need for applying any particular regulatory requirements. It poses questions regarding the proper allocation of jurisdiction over each category of IP-enabled service. The notice then requests comment on whether the services composing each category constitute 'telecommunications services' or 'information services' under the definitions set forth in the Act. Finally, noting the Commission's statutory forbearance authority and title I ancillary jurisdiction, the notice describes a number of central regulatory requirements (including, for example, those relating to access charges, universal service, E911, and disability accessibility), and asks which, if any, should apply to each category of IP-enabled services."

Ending Regulation without Representation

Steps Toward Improving Regulatory Disclosure

Federal regulatory compliance costs now total more than \$1 trillion annually, as the earlier cited Crain study indicates. Although some regulations' benefits exceed their costs, the costs and benefits are known for relatively few regulations. Without any official regulatory accounting mandate for agencies, OMB's estimates of overall net benefits are questionable, which makes it difficult to know whether society wins or loses as a result of those rules. The regulatory data that are available should be officially summarized and publicly disclosed to help create pressures for more useful future disclosure. A helpful 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 many other compilations. That simple step alone would help transform today's regulatory "hidden tax" culture to one of more openness.

Although reformers should make regulatory cost disclosure a priority, engaging in a protracted legislative fight over comprehensive reform should be avoided. Better would be halting Congress's excessive delegation of legislative power to unelected agency personnel in the first place, so Congress itself then internalizes pressures to make risk and cost-benefit assessments in its future directives to agencies. Elected representatives must assume responsibility and must end "regulation without representation" to rein in the off-budget regulatory costs.

Broadly, today's regulations fall into two classes: those that are economically significant (costing more than \$100 million annually) and those that are not. Agencies typically emphasize reporting of economically significant rules, which OMB also tends to emphasize in its assessments of the regulatory state. An obvious problem with this approach is that many rules can slide unobserved below the threshold. Moreover, agencies need not specify whether any or all of their economically significant rules cost only \$100 million—or something far beyond. Redefining economically significant rules to reflect increasing cost tiers would improve disclosure. Agencies could be required to break up their economically significant rules into categories that represent increasing costs. Table 8 presents one alternative that assigns economically significant rules to one of five categories. Agencies could classify their rules on the basis of cost information that has been provided in the regulatory impact analyses that accompany many economically significant rules, or on the basis of separate internal or external estimates.

Although modest, such steps toward greater disclosure could be important. Today, to learn about regulatory trends and to accumulate information on rules—such as numbers produced by each agency, their costs and benefits (if available), and so on—interested citizens must comb through the *Agenda's* 1,000-plus pages of small, multi-column print or must search online. Useful regulatory information is available but often is tedious to accumulate; the *Agenda* could be made more user-friendly.

As part of this process, data from the *Agenda* could be officially summarized in charts each

Although some regulations' benefits exceed their costs, the costs and benefits are known for relatively few regulations.

Table 8. Possible Breakdown of “Economically Significant” Rules

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

Box 2. Regulatory Report Card: Data Recommended for Inclusion

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

year, perhaps presented as a chapter in the federal budget, the Agenda itself, or the *Economic Report of the President*.

One way to set up a regulatory report card is shown in Box 2. Information could be added to the report as deemed necessary—for instance, success or failure of any special initiative, such as any “reinventing government,” or regulatory reform effort. Providing five-year historical data would tremendously enhance the Agenda’s usefulness. Paradoxically, one of the virtues of a regulatory report

card is that it would reveal more clearly what we don’t know about the regulatory state—something quite useful to know.

Detailed cost-benefit data are not necessary to begin producing a regulatory report card. A clear presentation of trends in those data would prove useful to scholars, third-party researchers, and Congress. By making agency activity more explicit, a regulatory report card would help ensure that policy makers take the growth of the regulatory state seriously.

“No Regulation without Representation”

Years of unbudgeted regulatory growth merit concern. We simply do not know whether regulatory benefits exceed costs.³¹ But agencies are not the real culprits. Congress regularly shirks its constitutional duty to make the tough calls. It delegates considerable law-making power to agencies, and then it fails to ensure that they deliver benefits that are greater than costs. Thus, agencies can hardly be faulted for not guaranteeing optimal regulation or for not ensuring that only “good” rules get through.

Agencies face overwhelming incentives to expand their turf by regulating even in the absence of demonstrated need, because the only measure of agency productivity—other than growth in their budgets and number of employees—is the number of regulations that they produce. One need not waste time blaming agencies for emphasizing 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 although regulatory agencies issued 3,718 final rules, Congress passed and the president signed into law a comparatively low 321 bills in 2006.³²

But, as noted, regulatory agencies are at work on 4,052 rules. The unelected are doing the bulk of the lawmaking. Because agencies never answer to voters, an annual regulatory report card is a start but not a complete answer. And the regulatory reforms that rely on agencies’ policing themselves are not capable of harnessing the regulatory state. Rather, making Congress directly answerable to the voters for the costs that agencies impose on the public would best promote accountable regulation. The way to control regulation is

not to merely require agencies to perform cost-benefit analyses, but to require Congress to vote on agencies’ final rules before such rules become binding on the public.

Congressional accountability for regulatory costs assumes new importance in today’s era of vanished budget surpluses. If Congress’s alternatives are to spend or to issue new regulations, then concern about deficits invites Congress to regulate rather than increase government spending to accomplish its ends. For example, suppose Congress wanted to create a job-training program or otherwise fulfill some promise to voters. Funding a job-training program would require approval of a new appropriation for the Department of Labor, which would appear in the federal budget—and increase the deficit—or Congress could simply pass a law requiring Fortune 500 companies to fund job training. That law, of course, would be carried out through new regulations issued by the Labor Department. The latter option would not add significantly to federal spending but would, nonetheless, let Congress take credit. By regulating instead of spending, government can expand almost indefinitely without explicitly taxing anybody one extra penny.

Making Congress as accountable for regulation as for legislation is a prerequisite for control of the off-budget regulatory state. Requiring explicit approval of all proposed regulations would ensure that Congress bore direct responsibility for every dollar of new regulatory costs. To allay the concern that Congress would become bogged down in approving agency rules, agency regulations could be voted on in bundles. In addition,

One need not waste time blaming agencies for emphasizing the very regulating they were set up to do in the first place. It would be better to point a finger at Congress.

congressional approval of new regulation could also be given by voice vote, signifying unanimity, rather than by tabulated roll call vote. The important thing is that Congress be held accountable.

Whatever improvements in disclosure might be made, however, congressional approv-

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

Appendix of Historical Tables

Part A. Federal Register Page History, 1936–2006

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
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

n/a = not available.

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

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

Part B. Number of Documents in *Federal Register*, 1976–2006

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

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

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

Part C. Unified Agenda Rules History, 1983–2006

Total Number of Rules Under Construction

1980s			1990s			2000s		
1983	April	2,863	1990	April	4,332	2000	October	4,699
	October	4,032		October	4,470	2001	October	4,509
1984	April	4,114	1991	April	4,675	2002	October	4,187
	October	4,016		October	4,863	2003	December	4,266
1985	April	4,265	1992	April	4,186	2004	December	4,083
	October	4,131		October	4,909	2005	October	4,062
1986	April	3,961	1993	April	4,933	2006	December	4,052
	October	3,983		October	4,950			
1987	April	4,038	1994	April	5,105			
	October	4,005		October	5,119			
1988	April	3,941	1995	April	5,133			
	October	4,017		October	4,735			
1989	April	4,003	1996	April	4,570			
	October	4,187		October	4,680			
			1997	April	4,417			
				October	4,407			
			1998	April	4,504			
				October	4,560			
			1999	April	4,524			
				October	4,568			

Part D. Agenda Rules History by Department and Agency, 1998–2005

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

(continued on next page)

Part D. Agenda Rules History by Department and Agency, 1998–2005 (continued)

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

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

Source: Compiled from the "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," *Federal Register*, various years.

Part E. Listing of 139 “Economically Significant” Rules, 2006*

From the Regulatory Plan (42 Rules)

Department of Agriculture

1. 8. Fsp: Eligibility and Certification Provisions of the Farm Security and Rural Investment Act of 2002
2. 12. Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the Wic Food Packages
3. 13. Egg Products Inspection Regulations
4. 14. Performance Standards for the Production of Processed Meat and Poultry Products; Control of *Listeria monocytogenes* in Ready-to-Eat Meat and Poultry Products
5. 15. Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products
6. 16. Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle

Department of Commerce

7. 23. Right Whale Ship Strike Reduction
8. 24. Implement and Administer a Coupon Program for Digital-to-Analog Converter Boxes

Department of Energy

9. 28. Energy Conservation Standards for Residential Electric and Gas Ranges and Ovens and Microwave Ovens, Dishwashers, Dehumidifiers, and Commercial Clothes Washers
10. 29. Energy Efficiency Standards for Commercial Refrigeration Equipment
11. 30. Energy Efficiency Standards for Residential Furnaces and Boilers
12. 31. Energy Efficiency Standards for Electric Distribution Transformers
13. 32. Energy Efficiency Standards for Ceiling Fan Light Kits
14. 33. Loan Guarantees for Projects That Employ Innovative Technologies

Department of Health and Human Services

15. 35. Control of Communicable Diseases, Interstate and Foreign Quarantine
16. 42. Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements

17. 44. Prospective Payment System for Long-Term Care Hospitals RY 2008: Annual Payment Rate Updates (CMS-1529-P)
18. 45. Standards for E-Prescribing Under Medicare Part D (CMS-0016-P)

Department of Homeland Security

19. 49. Minimum Standards for Driver's Licenses and Identification Cards Acceptable to Federal Agencies for Official Purposes
20. 57. Passenger Manifest for Commercial Aircraft Arriving in and Departing from the United States; Passengers and Crew Manifests for Commercial Vessels Departing from the United States

Department of Justice

21. 64. Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities (Section 610 Review)
22. 65. Nondiscrimination on the Basis of Disability in State and Local Government Services (Section 610 Review)

Department of Labor

23. 72. Regulations Implementing the Health Care Access, Portability, and Renewability Provisions of the Health Insurance Portability and Accountability Act of 1996
24. 74. Section 404 Regulation—Default Investment Alternatives Under Participant Directed Individual Account Plans
25. 82. Occupational Exposure to Crystalline Silica

Department of Transportation

26. 87. Transport Airplane Fuel Tank Flammability Reduction
27. 90. National Registry of Certified Medical Examiners
28. 92. Side Impact Protection Upgrade—Federal Motor Vehicle Safety Standards, No. 214
29. 94. Electronic Stability Control (ESC)

Department of Treasury

30. 95. Implementation of A Revised Basel Capital Accord (Basel II)
31. 96. Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Domestic Capital Modifications (Basel Ia)

32. 97. Implementation of a Revised Basel Capital Accord (Basel II)

Environmental Protection Agency

33. 99. Standards for the Management of Coal Combustion Wastes Generated by Commercial Electric Power Producers
34. 101. Control of Emissions from New Locomotives and New Marine Diesel Engines Less Than 30 Liters per CYlinder
35. 102. Control of Emissions from Nonroad Spark-Ignition Engines and Equipment
36. 104. Review of the National Ambient Air Quality Standards for Ozone
37. 106. Review of the National Ambient Air Quality Standards for Lead
38. 113. Definition of Solid Wastes Revisions
39. 116. Control of Hazardous Air Pollutants from Mobile Sources
40. 124. Lead-Based Paint Activities; Amendments for Renovation, Repair, and Painting
41. 129. Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (Spcc) Requirements—Amendments

Consumer Product Safety Commission

42. 146. Flammability Standard for Upholstered Furniture

From the Unified Agenda (97 Additional Rules)

Department of Agriculture

43. 164. Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Fish, Perishable Agricultural Commodities, and Peanuts (Ls-03-04)
44. 181. Emergency Conservation Program
45. 182. 2005 Hurricane Disaster Assistance Programs
46. 191. 2006 Disaster Assistance Programs
47. 201. Emergency Forestry Conservation Reserve Program
48. 203. Extension of the Milk Income Loss Contract Program
49. 205. Percentages for Direct and Counter-CYclical Program Advance Payments
50. 351. Electronic Signatures
51. 456. Conservation Security Program

Department of Commerce

52. 486. Imposition of License Requirement for Exports and Reexports of Missile Technology (Mt)—Controlled Items to Canada

Department of Education

53. 913. Student Assistance General Provisions and Federal Student Aid Programs—Academic Competitiveness and National Science and Mathematics Access to Retain Talent Grant Programs
54. 914. Institutional Eligibility Under the Higher Education Act of 1965, as Amended; Student Assistance General Provisions and Federal Student Aid Programs

Department of Energy

55. 922. Energy Efficiency Standards for Fluorescent and Incandescent Reflector and General Service Lamps
56. 939. Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners
57. 940. Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment and Water Heaters
58. 941. Energy Efficiency Standards for 1–200 Hp Electric Motors
59. 942. Energy Conservation Standards for Residential Central Air Conditioners and Air Conditioning Heat Pumps
60. 943. Energy Conservation Standards for Fluorescent Lamp Ballasts
61. 944. Determination and Energy Efficiency Standards for Battery Chargers and External Power Supplies
62. 945. Energy Efficiency Standards for Refrigerated Bottled or Canned Beverage Vending Machines

Department of Health and Human Services

63. 1052. Prevention of Salmonella Enteritidis in Shell Eggs
64. 1129. Revisions to HIPAA Code Sets (CMS-0013-P)
66. 1135. Outpatient Hospital Services and Rural Health Clinic Services Amendment (CMS-2213-P)
66. 1140. Home Health Prospective Payment System Rate Update for Calendar Year 2008 (CMS-1541-P)
67. 1144. State Flexibility for Medicaid Benefit Packages (CMS-2232-P)
68. 1147. Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2008 (CMS-1551-P)
69. 1148. Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2008 (CMS-1545-P)
70. 1149. Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2008 (CMS-1385-P)
71. 1153. Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2008 Payment Rates (CMS-1392-P)
72. 1169. Group Health Plans and Health Insurance Issues Under the Newborns and Mothers Health Protection Act (CMS-4116-F)

73. 1177. Revised Payment System for Services Furnished in Ambulatory Surgical Centers (ASCS) Effective January 1, 2008 (CMS-1517-F)
74. 1182. Electronic Claims Attachments Standards (CMS-0050-F)
75. 1184. Revisions to the Appeals Process for Initial Claim Determinations (CMS-4064-F)
76. 1197. Organ Procurement Organization Conditions for Coverage and Recertification (CMS-3064-F) (Completion of a Section 610 Review)
77. 1201. Home Health Payment System Rate Update for CY 2007 and Deficit Reduction Act of 2005 Changes to Medicare Payment for Oxygen Equipment and Capped Rental Durable Medical Equipment (CMS-1304-F)
78. 1202. Inpatient Psychiatric Facility Prospective Payment System—Update for RY 2007 (CMS-1306-F)
79. 1204. Health Care Infrastructure Improvement Program; Loan Program for Qualifying Hospitals Engaged in Cancer-Related Health Care (CMS-1287-F)
80. 1205. Prospective Payment System for Long-Term Care Hospitals RY 2007: Annual Payment Rate Updates (CMS-1485-F)
81. 1209. Changes to the Hospital Outpatient Prospective Payment System and CY 2007 Payment Rates; and Changes to the ASC Payment System in CY 2007 (CMS-1506-F)
82. 1210. Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2007, Certain Provisions Concerning Competitive Acquisition for DmePOS (CMS-1540-F)
83. 1211. Part A Premiums for Calendar Year 2007 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement (CMS-8028-N)
84. 1212. Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for Calendar Year 2007 (CMS-8029-N)
85. 1214. Five-Year Review of Work Relative Value Units Under the Physician Fee Schedule (CMS-1512-Pn)
86. 1215. Part B Monthly Actuarial Rates and Premium Rates Beginning January 1, 2007 (CMS-8030-N)
87. 1216. Revisions to Payment Policies Under the Physician Fee Schedule and Ambulance Fee Schedule for Calendar Year 2007 (CMS-1321-Fc)
88. 1217. Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2007 (CMS-1530-N)
89. 1224. Fee Schedule for Payment of Ambulance Services—Update for CY 2007 (CMS-1532-N)

Department of Homeland Security

90. 1246. Assistance to Firefighters Grant Program
91. 1247. Public Transportation Security Grants

92. 1281. New Electronic Account, Adjudication, and Reporting System; New Procedures for Filing and Processing of Petitions and Applications
93. 1286. Adjustment of the Immigration Benefit Application/Petition and Biometric Fee Schedule
94. 1340. Allocation of H-1B Visas Created By the H-1B Visa Reform Act of 2004
95. 1397. Salvage and Marine Firefighting Requirements; Vessel Response Plans for Oil (USCG-1998-3417)
96. 1418. Container Seals
97. 1426. Letters and Documents; Advanced Electronic Presentation of Cargo Data
98. 1437. Air Transit Program
99. 1440. Documents Required for Travelers Departing from or Arriving in the United States at Air Ports-of-Entry from Within the Western Hemisphere
100. 1443. Secure Flight Program
101. 1451. Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License
102. 1467. Air Cargo Security Requirements
103. 1506. Disaster Assistance; Federal Assistance to Individuals and Households
104. 1514. Estimating Eligible Cost
105. 1518. Special Community Disaster Loans Program

Department of Housing and Urban Development

106. 1569. RESPA—Improving the Process for Obtaining Mortgages (FR-4727)

Department of the Interior

107. 1775. Migratory Bird Hunting; 2006–2007 Migratory Game Bird Hunting Regulations; State Frameworks, Tribal, Alaska Subsistence

Department of Justice

108. 1993. Retail Sales of Scheduled Listed Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products

Department of Labor

109. 2068. Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended
110. 2095. Revision of the Form 5500 Series and Implementing Regulations

- 111. 2124. Occupational Exposure to Beryllium
- 112. 2143. Electric Power Transmission and Distribution; Electrical Protective Equipment
- 113. 2147. Hearing Conservation Program for Construction Workers

Department of State

- 114. 2173. Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Air Transit Program

Department of Transportation

- 115. 2207. Congestion Management Rule for Laganardia Airport
- 116. 2249. Congestion and Delay Reduction At Chicago O'Hare International Airport
- 117. 2287. Interstate Van Operations
- 118. 2335. Grant Program for Local Rail Line Relocation and Improvement Projects

Department of Veterans Affairs

- 119. 2950. Enrollment—Provision of Hospital and Outpatient Care to Veterans—Subpriorities of Priority Categories 7 and 8 and Enrollment Level Decision

Environmental Protection Agency

- 120. 3071. Clean Air Mercury Rule: Federal Plan
- 121. 3159. Review of the National Ambient Air Quality Standards for Particulate Matter
- 122. 3210. Inclusion of Delaware and New Jersey in the Clean Air interstate Rule
- 123. 3211. Rule on Section 126 Petition from NC to Reduce Interstate Transport of Fine PM and O₃; FIPS to Reduce Interstate Transport of Fine PM & O₃; Revisions to CAIR Rule; Revisions to Acid Rain Program
- 124. 3213. Regional Haze Regulations; Revisions to Provisions Governing Alternative to Source-Specific Best Available Retrofit Technology (BART) Determinations

- 125. 3315. Standards for the Management of Coal Combustion Wastes—Non—Power Producers and Minefilling
- 126. 3325. Revisions to the Definition of Solid Waste Final Rule
- 127. 3366. National Primary Drinking Water Regulations: Radon

Social Security Administration

- 128. 3675. Medicare Part B Income-Related Monthly Adjustment Amount (2101f)
- 129. 3680. Administrative Review Process for Adjudicating Initial Disability Claims (3203f)

Consumer Product Safety Commission

- 130. 3753. Proposed Standard to Address Open-Flame Ignition of Bedclothes

Federal Communications Commission

- 131. 3809. Broadband Over Power Line Systems
- 132. 3816. DTV Tuner Requirements
- 133. 3834. Redesignation of the 17.7–19.7 GHz Band, Blanket Licensing of Satellite Earth Stations, & Allocation of Spectrum in the 17.3-17.8 and 24.75–25.25 GHz Bands for Broadcast Satellite Service Use
- 134. 3877. Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules
- 135. 3883. Transfer of the 3650 through 3700 MHz Band from Federal Government Use
- 136. 3884. 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services
- 137. 3900. Hearing Aid—Compatible Telephones
- 138. 3920. IP-Enabled Services

Nuclear Regulatory Commission

- 139. 4118. Revision of Fee Schedules; Fee Recovery for FY2006

Source: Compiled By Author from the "the Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions," Federal Register, Vol. 71, No. 237, December 11, 2006.

*Note: Second Number in Each Entry Denotes the Sequential Location in the Regulatory Plan and Unified Agenda. See the Entry for More Detail.

Part F. Rules Affecting Small Business, 1996–2004

	1996	1997	1998	1999	2000	2001	2002	2003	2004
Dept. of Agriculture	56	58	63	49	47	56	39	64	54
Dept. of Commerce	46	29	52	88	98	89	77	74	108
Dept. of Defense	22	15	21	15	7	8	6	13	13
Dept. of Education	1	1	0	0	0	0	1	0	0
Dept. of Energy	2	2	0	0	1	1	0	1	0
Dept. of Health & Human Services	89	100	88	75	107	108	92	96	112
Dept. of Homeland Security	0	0	0	0	0	0	0	33	43
Dept. of Housing & Urban Development	9	7	1	1	0	3	6	11	4
Dept. of the Interior	17	28	29	33	18	20	17	26	21
Dept. of Justice	27	26	10	14	14	15	13	8	8
Dept. of Labor	51	39	41	38	40	26	22	23	19
Dept. of State	2	1	0	0	2	3	6	2	1
Dept. of Transportation	31	44	208	246	266	244	216	151	63
Dept. of the Treasury	52	50	60	15	31	27	26	27	41
Dept. of Veterans Affairs	3	7	6	6	3	1	1	0	0
Agency for International Development	0	0	0	0	0	1	2	1	0
Architectural & Transportation Barriers Compliance Board	0	0	3	2	2	1	1	0	0
Corporation for National & Community Service	0	0	0	0	0	0	0	0	1
Environmental Protection Agency	152	163	178	179	205	185	167	135	110
Federal Emergency Management Agency	1	0	0	0	1	1	1	0	0
General Services Administration	6	3	2	2	1	1	4	5	3
National Aeronautics & Space Administration	1	0	1	0	0	0	0	0	0
National Archives & Records Administration	1	1	1	0	0	0	0	1	1
Equal Employment Opportunity Commission	0	1	2	0	0	2	0	0	3
National Endowment for the Arts	0	0	0	0	0	0	2	2	0
National Endowment for the Humanities	0	1	0	0	0	0	0	0	0
National Science Foundation	0	0	0	0	0	0	0	0	0
Office of Management & Budget	2	1	1	2	1	0	0	0	0
Railroad Retirement Board	1	1	0	0	0	0	0	0	0
Small Business Administration	17	13	20	28	24	21	21	24	19
Social Security Administration	1	0	0	2	0	0	1	1	1
U.S. Information Agency	0	0	0	0	0	0	0	0	0
Federal Acquisition Regulation	20	15	11	16	13	9	6	5	7
Commodity Futures Trading Commission	0	0	1	0	0	0	0	2	1
Consumer Product Safety Commission	1	0	0	0	0	0	0	0	0
Federal Communications Commission	75	70	82	91	105	117	109	104	113
Federal Energy Regulatory Commission	0	0	0	1	0	0	0	0	0
Federal Housing Finance Board	0	0	1	0	0	0	0	0	0
Federal Maritime Commission	0	0	5	4	7	6	7	10	5
Federal Reserve System	4	2	5	2	8	10	7	3	6
Federal Trade Commission	7	11	10	10	9	9	9	9	12
Federal Mediation & Conciliation Service	0	0	0	0	1	1	0	0	0
Interstate Commerce Commission	0	0	0	0	0	0	0	0	0
National Credit Union Administration	1	1	0	0	0	0	0	0	1
Nuclear Regulatory Commission	8	9	8	5	3	5	5	3	1
Resolution Trust Corporation	0	0	0	0	0	0	0	0	17
Securities & Exchange Commission	48	34	27	39	40	26	28	25	0
TOTAL	754	733	937	963	1054	996	892	859	788

Source: Compiled from Regulatory Information Service Center, Unified Agenda of Federal Regulations, various years.

Part G. Federal Rules Affecting Lower Level Governments, 2001–2006

	2006		2005		2004		2003		2002		2001	
	State	Local										
Dept. of Agriculture	74	58	69	59	71	59	53	42	60	49	51	43
Dept. of Commerce	28	9	34	8	23	9	18	9	15	8	30	11
Dept. of Defense					1	1	2	2	2	2	3	3
Dept. of Education	1				0	0	0	0	1	1	0	0
Dept. of Energy	12	9	16	15	9	8	9	9	8	9	10	10
Dept. of Health & Human Services	70	47	34	19	35	18	40	20	46	21	59	21
Dept. of Homeland Security	39	28	39	29	37	27	34	28	0	0	0	0
Dept. of Housing & Urban Development	3	7	6	10	9	13	14	23	13	17	10	14
Dept. of the Interior	37	11	44	17	37	16	42	20	47	22	66	29
Dept. of Justice	14	8	15	9	16	10	15	11	28	21	28	20
Dept. of Labor	13	8	16	10	18	12	23	14	25	16	33	23
Dept. of State	3		4	1	1	1	2	1	2	1	2	2
Dept. of Transportation	27	12	11	4	21	13	26	16	42	23	41	23
Dept. of the Treasury	16	15	13	12	17	13	22	15	17	12	16	8
Dept. of Veterans Affairs	1		2	1	3	2	5	2	4	1	6	1
Advisory Council on Historic Preservation					1	0	1	0	1	0	0	0
Agency for International Development					0	0	0	0	0	0	0	0
Architectural & Transportation Barriers Compliance Board	1	1	1	1	2	2	2	2	3	3	3	3
CPBSD*	2	2	2	2	2	2						
Corp. for National & Community Service	7	7	9	9	5	5	4	4	8	8	6	6
Environmental Protection Agency	132	86	143	98	140	92	157	103	155	101	180	113
Federal Emergency Management Agency					0	0	0	0	8	8	7	8
Equal Employment Opportunity Commission	3	4	3	4	1	1	2	2	2	2	1	1
General Services Administration	8	5	8	5	8	6	11	7	10	6	6	1
National Aeronautics & Space Agency					0	0	0	0	0	0	0	0
National Archives & Records Administration	4	4	4	4	4	4	4	4	4	4	5	5
Institute of Museum & Library Services	1	1	1	1	1	1	2	2	2	2	2	2
National Endowment for the Arts	1	1	1	1	1	1	1	1	1	1	1	1
National Endowment for the Humanities					0	0	1	1	1	1	1	1
National Science Foundation					0	0	0	0	0	0	1	0
Office of Management & Budget	1	1	1	1	1	1	0	0	0	0	0	0
Railroad Retirement Board					0	0	0	0	0	0	0	0
Small Business Administration					0	0	0	0	0	0	0	0
Social Security Administration	2		3		5	1	8	3	5	3	6	3
Tennessee Valley Authority					0	0	0	0	0	0	0	0
U.S. Information Agency					0	0	0	0	0	0	0	0
Federal Communications Commission	32	19	37	24	33	20	21	16	23	18	25	18
Federal Energy Regulatory Commission					1	0	2	1	2	2	2	2
Federal Reserve System	1	1			0	0	0	0	0	0	0	0
Federal Trade Commission	2		1		1	0	1	0	1	0	2	0
National Credit Union Administration	3		2		0	0	1	0	1	0	0	0
National Indian Gaming Commission					0	0	0	0	1	0	1	0
Nuclear Regulatory Commission	3	1	3	1	3	0	4	1	1	1	1	1
Securities & Exchange Commission	2	1	1	1	0	0	0	0	0	0	3	0
State and Local Totals	543	346	523	346	507	338	527	359	539	363	608	373

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

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

Notes

1. Office of Management and Budget, *Budget of the United States Government*, Fiscal Year 2008, <http://www.whitehouse.gov/omb/budget/fy2008/summarytables.html>.
2. Office of Management and Budget, *Draft 2007 Report to Congress on the Costs and Benefits of Federal Regulations*, March 9, 2007, Table 1-1, p. 7, http://www.whitehouse.gov/omb/inforeg/2007_cb/2007_draft_cb_report.pdf.
3. W. Mark Crain, *The Impact of Regulatory Costs on Small Firms*, report prepared for the Small Business Administration, Office of Advocacy, Contract no. SBHQ-03-M-0522, September 2005, <http://www.sba.gov/advo/research/rs264tot.pdf>.
4. W. Mark Crain and Thomas D. Hopkins, *The Impact of Regulatory Costs on Small Firms*, report prepared for Small Business Administration, Office of Advocacy, RFP no. SBAHQ-00-R-0027, October 2001, <http://www.sba.gov/advo/research/rs207tot.pdf>. This report, in turn, updates still earlier analyses, such as Thomas D. Hopkins, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, Washington, DC, October 1995, http://www.sba.gov/advo/laws/archive/law_brd.html.
5. In 1995, Thomas P. Hopkins had projected that regulatory costs would grow from \$668 billion to \$721 billion between 1995 and 2000, an annual growth rate of 1.3 percent (see Table 3, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*). Relatedly, Crain and Hopkins (2001) tabulated a 1.2 percent annualized compound growth rate between those same years in “total regulatory costs per household” for major categories of regulation. In the 2005 Crain study, regulatory costs per household (\$10,172 in 2004) had grown faster, at an annualized rate of 2.7 percent between 2000 and 2004. For present purposes, a lower growth trend of half that amount, 1.3 percent, is applied to the newer Crain figure of \$1.113 trillion to arrive at a more conservative 2006 estimate of \$1.142 trillion, an estimate that is also in line with the earlier lesser growth rate. (If the 2.7 percent growth rate had been used instead, the estimate for total 2006 regulatory costs would have been \$1.17 trillion.)
6. A breakdown by category for the original 2004 dollars appears in Table 15, “Total Cost of Federal Regulations in 2004 by Type and Business Portion,” Crain, p. 49.
7. See Thomas D. Hopkins, *Prepared Statement for the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform and Oversight*, May 16, 1996. See also Thomas D. Hopkins, *Regulatory Costs in Profile*, Center for the Study of American Business Policy Study No. 231, August 1996, p. 4.
8. Crain, p. 7.
9. Crain, p. 5.
10. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2003–2012*, January 2002, <http://www.cbo.gov/showdoc.cfm?index=3277&sequence=2>.
11. Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2008–2017*, January 2007, Chapter 1, p. 8, <http://www.cbo.gov/ftpdocs/77xx/doc7731/01-24-Budget-Outlook.pdf>.
12. Figures for 2004 and 2005 outlays and deficit are contained in Congressional Budget Office, *The Budget and Economic Outlook*, January 2005 and 2006 editions, <http://www.cbo.gov/showdoc.cfm?index=6060&sequence=0> and <http://www.cbo.gov/showdoc.cfm?index=7027&sequence=0>.
13. Tax figures from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 464, “Federal Receipts by Source: 1990 to 2006,” p. 311, <http://www.census.gov/prod/2006pubs/07statab/fedgov.pdf>.
14. Ibid.
15. U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 772, “Corporate Profits Before Taxes by Industry: 2000 to 2004,” p. 514, <http://www.census.gov/prod/2006pubs/07statab/business.pdf>. Profits do not reflect inventory valuation and capital consumption adjustments.
16. GDP figures for Canada and Mexico are from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 1325, “Gross Domestic Product (GDP) by Country: 1995 to 2004,” p. 845, <http://www.census.gov/prod/2006pubs/07statab/intlstat.pdf>.
17. Congressional Budget Office, 2007, p. 8.
18. Susan Dudley and Melinda Warren, “Moderating Regulatory Growth: An Analysis of the U.S. Budget for Fiscal Years 2006 and 2007,” *Regulator’s Budget Report* 28, published jointly by the Weidenbaum Center and the Mercatus Center, May 2006, p. 25, http://www.mercatus.org/repository/docLib/20060511_Moderating_Regulatory_Growth_An_Analysis_of_the_US_Budget_for_Fiscal_Years_2006_and_2007_Dudley_and_Warren_May_2006_Final_as_Posted.pdf. Original 2000 constant dollars are adjusted by the change in the consumer price index between 2000 and 2005, derived from U.S. Census Bureau, *Statistical Abstract of the United States: 2007*, Table 706, “Consumer Price Indexes (CPI-U) by Major Groups: 1990 to 2005,” p. 469. <http://www.census.gov/prod/2006pubs/07statab/prices.pdf>.

19. *Ibid.*, p. 26.
20. See, for example, Cindy Skrzycki, “Midnight Regulations’ Swell Register,” *Washington Post*, January 23, 2001, p. E1.
21. Counting 2000 as part of the new millennium, which is technically incorrect.
22. National Archives and Records Administration, Office of the Federal Register, “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” printed in *Federal Register*, Vol. 71, No. 237, December 11, 2006. Cited herein as *Agenda*.
23. Though the *Agenda* is published twice a year, this document tracks each year’s October or December year-end compilation.
24. *Agenda*, p. 72,720.
25. *Ibid.*, p. 74,335.
26. The legislation and executive orders by which agencies are directed to assess effects on state and local governments are described in *ibid.*, p. 74,355.
27. General Accounting Office website “Reports on Federal Agency Major Rules,” <http://www.gao.gov/decisions/majrule/majrule.htm>.
28. These seven are the Department of Health and Human Services (with 31 “economically significant” rules), the Department of Homeland Security (18), the Environmental Protection Agency (17), the Department of Agriculture (15), the Department of Energy (14), and the Departments of Labor and of Transportation (each with 8).
29. Dudley and Warren, from p. 17.
30. Press release, Federal Communications Commission, “FTC to Host Workshop on Broadband Connectivity Competition Policy,” December 7, 2006, <http://www.ftc.gov/opa/2006/12/broadbandworkshop2.shtm>.
31. For a complete analysis see David Schoenbrod and Jerry Taylor, “The Delegation of Legislative Powers,” *Cato Handbook for Congress: Policy Recommendations for the 108th Congress*, pp. 77–85, <http://www.cato.org/pubs/handbook/hb108/hb108-8.pdf>.
32. Derived from “Catalog of Public and Private Laws—109th Congress,” National Archives and Records Administration, <http://www.access.gpo.gov/nara/publaw/109publ.html>.

About the Author

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

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

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

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

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

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



Competitive Enterprise Institute

1001 Connecticut Avenue, NW
Suite 1250
Washington, DC 20036
202-331-1010
Fax 202-331-0640
www.cei.org

Issue Analysis is a series of policy studies published by the Competitive Enterprise Institute. Nothing in *Issue Analysis* should be construed as necessarily reflecting the views of CEI or as an attempt to aid or hinder the passage of any bill before Congress. Contact CEI for reprint permission. Additional copies of *Issue Analysis* may be purchased through CEI's publications department (pubs@cei.org or 202-331-1010).