



COMPETITIVE ENTERPRISE INSTITUTE

REGULATORY
REFORM PROJECT

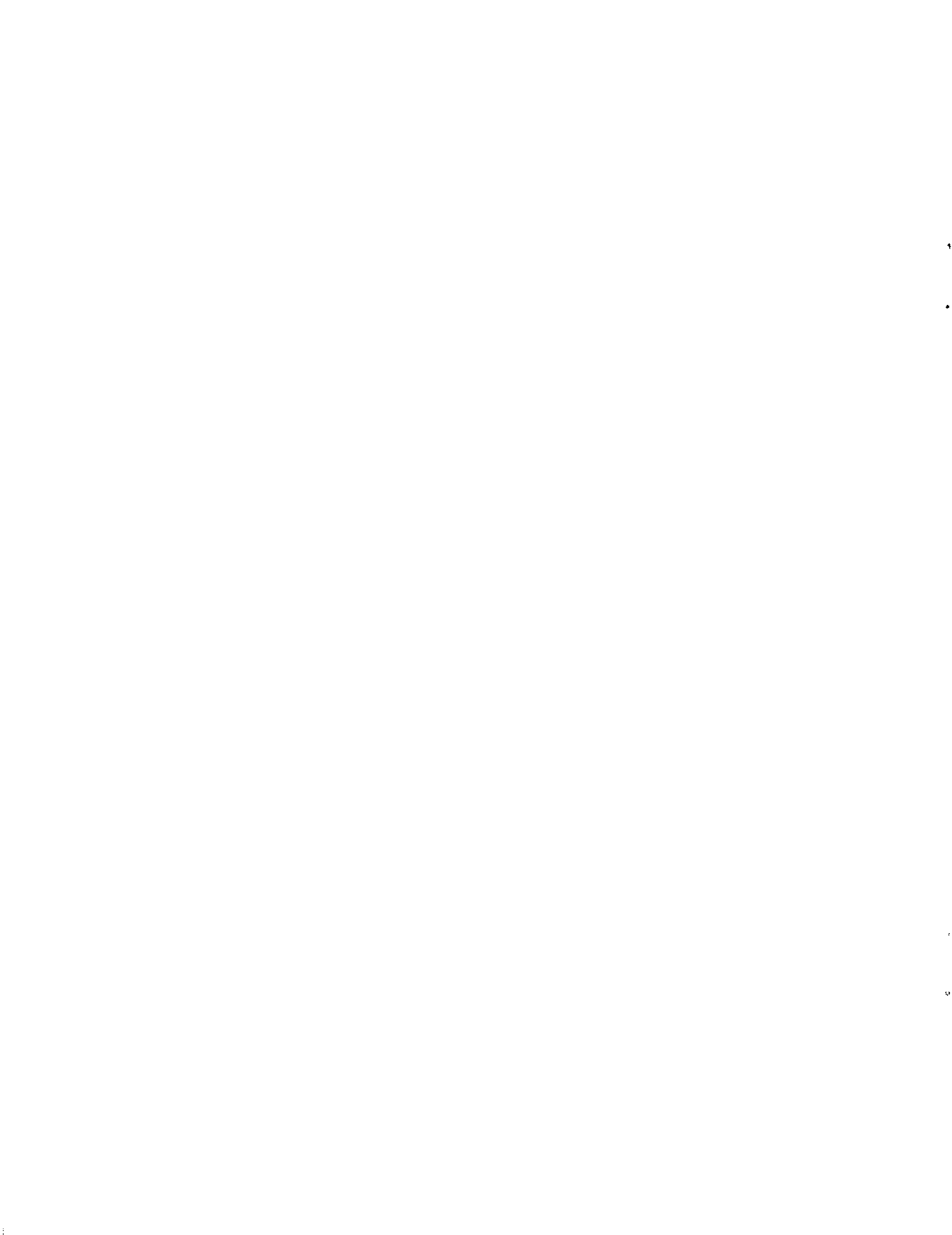
TEN THOUSAND COMMANDMENTS

A POLICYMAKER'S SNAPSHOT OF THE FEDERAL REGULATORY STATE

Clyde Wayne Crews Jr.

September 1996

ISSN#1085-9047



TEN THOUSAND COMMANDMENTS

A POLICYMAKER'S SNAPSHOT OF THE FEDERAL REGULATORY STATE (1996 Edition)

Clyde Wayne Crews Jr.

EXECUTIVE SUMMARY

While we know rather precisely how much the federal government collects from us in taxes, the extent of regulatory compliance costs imposed on the public is quite a different matter. While a third party estimate pegs costs at \$677 billion – more than the GNP of Canada – there is no official tracking of regulatory costs.

Congress is free to enact legislation it considers beneficial with little regard for the regulatory burdens that will result. Agencies that impose implementing regulations are unaccountable to the voting public, creating a disconnect between lawmaking power and responsibility, fostering “regulation without representation” as a deliberate public policy. Instead, reforms should ensure that regulatory costs are officially acknowledged, and that Congress is directly accountable for those costs at the ballot box.

Though official estimates do not yet exist, here are a few facts about the regulatory state described in the 1996 edition of *Ten Thousand Commandments*:

- Regulation costs more than \$1/2 trillion annually.
- Regulatory costs are triple the deficit, and one-third the level of federal outlays.
- Regulatory costs consume 19 percent of a household's after-tax budget.
- The Federal Register exceeds 67,000 pages annually.
- Budgets and staffing of federal agencies enforcing regulations are at record levels.
- There are more than 4,500 new rules in the pipeline.
- Regulators expect to impose new rules costing at least \$11.6 billion annually this year.
- Regulatory costs for small firms are nearly double the costs for large firms.
- New rules affecting small business increased seven percent under President Clinton.
- EPA provided benefit estimates for only 30 percent of its planned major rules.
- OMB in 1994 reviewed 135 “economically significant” rules, a 32% increase over 1993.

The goal of this report is to make future editions unnecessary by encouraging Congress to track its own regulatory escapades. In the short term, Congress could require that publicly available data, such as that accumulated in this report, should be consolidated and presented annually as a chapter in the fiscal budget. Though imprecise, such data will make the extent of the regulatory burden more explicit for policymakers and scholars. For example, five-year historical tables summarizing total major and minor rules issued by agencies, along with numbers and costs (where available) of those rules would be especially valuable.

Another part of the solution is to make regulatory costs as transparent as taxes through a limited form of regulatory budget, such as one requiring Congress to estimate, and set a ceiling for, the costs of new mandates at the time they are passed. The Office of Management and Budget could certify that the budget is not exceeded as rules are implemented.

Finally, Congress, not unaccountable agencies, must bear direct responsibility for every dollar of regulatory costs imposed on the public. Ideally, Congress should be required to vote its approval of every major agency regulation before these are binding on the public, thus ending “regulation without representation.” Topping these reforms off with a Regulatory Reduction Commission to reduce the existing \$677 billion regulatory burden would finally create a genuinely accountable regulatory system.

TEN-THOUSAND COMMANDMENTS

A POLICYMAKER'S SNAPSHOT OF THE FEDERAL REGULATORY STATE (1996 Edition)

Clyde Wayne Crews Jr.

INTRODUCTION: WHY REGULATION MATTERS

When the federal government decides it wants to get something done, it has three choices. It can raise taxes to pay for its adventures, it can borrow money (which must be paid back with interest by future taxpayers), or it can issue regulations to require the private sector and lower-level governments to shoulder the burden. Whichever the method, lunch is never free.

The annual fiscal budget tracks government taxing and spending. We know rather precisely how much we pay in individual, corporate, payroll and excise taxes, and how much we borrow. We know these numbers so well, in fact, that yearly floor fights occur in Congress over how to bring the federal budget back into balance, and a Balanced Budget Amendment is a recurring campaign issue.

The extent of regulation is quite a different matter. While hundreds of billions are spent complying with regulations, no formal mechanism exists to account for their costs. Regulations operate as hidden taxes: Companies and governments subject to regulations pass much of the costs down to consumers, who pay them as part of the prices of goods and services. Yet the precise amounts paid are educated guesswork. While some regulations may produce benefits that exceed costs, the reality is that costs and benefits are known for relatively few regulations. In many cases, costs exceed benefits, and we run a "regulatory budget deficit." Even where benefits do exceed costs, requiring one portion of the public to bear the costs of benefits enjoyed by another may not be warranted or fair. Without any means of measuring the regulatory burden, it is difficult to know when society wins or loses.

*Regulations
operate as
hidden taxes.*

THE TOTAL REGULATORY BURDEN

Agencies bear no legal obligation to keep tabs on the regulatory costs they impose, and in some cases they are even explicitly forbidden from ensuring that benefits exceed costs. Nevertheless, estimates exist that help

put regulation in perspective, and that allow policymakers to grasp where regulatory costs stand in relation to other measures of government.

Regulation costs more than \$1/2 trillion annually.

Federal regulation will cost approximately \$677 billion in 1996, according to a November 1995 report to Congress by the Small Business Administration.¹ As Figure 1 shows, these costs have increased steadily over the past eight years. Costs declined through much of the 1980s following deregulatory efforts in various economic sectors including trucking, airlines, telecommunications, and natural gas, hitting a low of \$548 billion in 1988. Since then, upturns, especially in environmental and social regulations such as the Clean Air Act and the Americans with Disabilities Act, helped reverse the trend. Much of this increase can be attributed to President George Bush, referred to as "The Regulatory President" by the *National Journal*.² While regulatory burdens are increasing in absolute terms, they are projected by economist Thomas D. Hopkins to remain at roughly nine percent of GDP throughout the remainder of this decade.³ However these figures likely understate the total regulatory burden. Hopkins has indicated that his numbers primarily illustrate only direct compliance costs, not costs of lost productivity and other indirect costs.⁴

Regulatory costs consist of three broad components, according to Hopkins: environmental and risk reduction regulations, price and entry control regulations on business, and paperwork regulations such as tax compliance. Each of these account for about one-third of today's regulatory compliance costs.⁵ Hopkins breaks costs down more fully as shown in Figure 2, which depicts regulatory costs within various categories between 1977 and 2000. Notable are the relative decrease in economic regulation and the

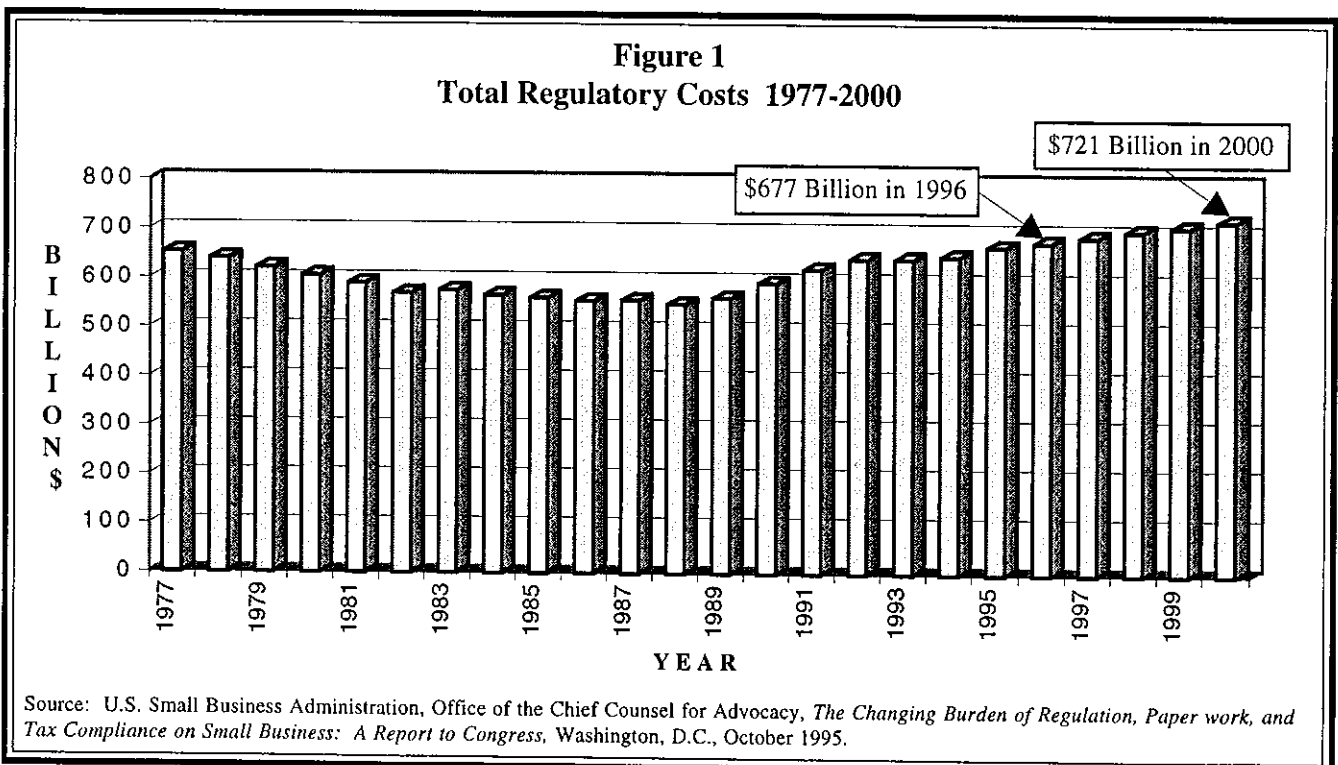


Figure 2
Regulatory Costs 1977-2000
(Billions of 1995 Dollars)

YEAR	SOCIAL		ECONOMIC		PAPERWORK	TOTAL REGULATORY COSTS
	Environmental	Other Social	Efficiency Loss	Transfer		
1977	47	32	149	288	138	654
1978	52	35	142	273	139	641
1979	56	37	134	256	139	622
1980	60	39	125	239	143	606
1981	63	37	118	225	147	590
1982	65	35	113	213	144	570
1983	71	32	108	204	161	576
1984	76	31	103	194	163	567
1985	81	31	99	186	165	562
1986	87	31	95	177	165	555
1987	93	32	90	168	174	557
1988	98	34	86	158	173	549
1989	105	36	85	156	180	562
1990	112	39	83	153	206	593
1991	129	40	82	151	219	621
1992	137	47	82	150	226	642
1993	149	51	81	149	212	642
1994	152	53	80	148	215	648
1995	168	55	80	147	218	668
1996	174	58	79	145	221	677
1997	180	60	79	144	225	688
1998	188	62	78	143	229	700
1999	193	65	77	142	232	709

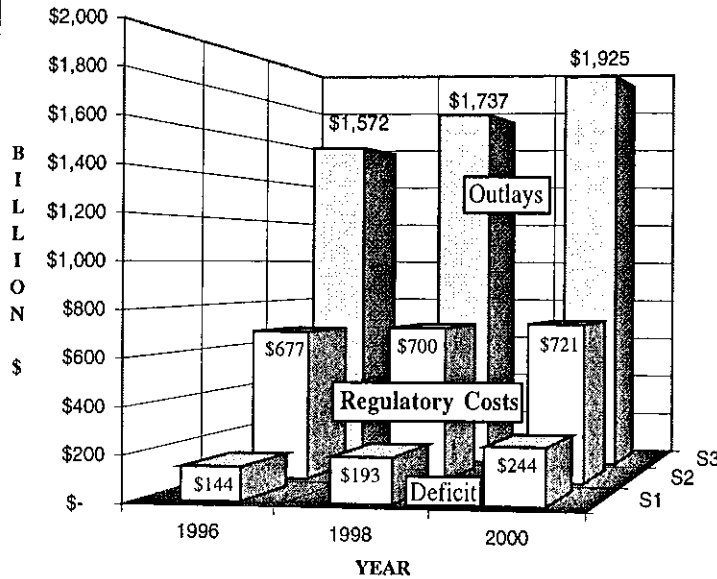
Source: U.S. Small Business Administration, Office of the Chief Counsel for Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, Washington, D.C., October 1995.

relative increase in environmental, social, and paperwork regulation. While total regulation will remain at about nine percent of GDP, the environmental portion is expected to consume over 27 percent of the total regulatory burden by 2000, compared to its seven percent share in 1977.

\$677 billion is a huge number, and difficult to visualize. To put the economic costs of regulation in perspective, consider that Congress and the President expend a great deal of political energy fighting over the recent string of \$200 billion federal budget deficits and the \$5 trillion federal debt that long-term deficit spending has spawned. The \$677 billion regulatory burden is far larger than the annual deficits. Moreover, because it is off-budget regulation is subject to no administrative constraints. As Figure 3

Regulatory costs are triple the deficit and one-third federal outlays.

Figure 3
Regulatory Costs Compared With
Federal Outlays and Deficit 1996-2000



Sources: Congressional Budget Office, *The Economic and Budget Outlook: Fiscal Years 1997-2006*, May 1996; Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, October 1995.

shows, this year's estimated regulatory burden is over four times larger than the projected deficit. Throughout the remainder of the decade, regulatory costs remain nearly three times the size of the ever-increasing deficit. If a balanced budget is secured in this environment, it could place additional pressure on policymakers to substitute regulatory mandates for government spending, for there is no regulatory budget that must be "balanced."

Figure 3 also shows that off-budget regulation, now over 40 percent the size of the fiscal budget itself, remains at least one third the level of total government spending throughout the decade. This is remarkable given that regulatory costs are imposed over and above that fiscal budget. Regulatory costs are now larger than the entire spending budget of the 1960s. Furthermore, regulatory costs exceed the entire GNP of Canada (\$563 billion in 1991) and they exceed the combined GNPs of Mexico and Australia (\$276

and \$288 billion, respectively). Personal income taxes of \$543 billion in 1994 are exceeded, as are pre-tax corporate profits, which were \$456 billion in 1993.

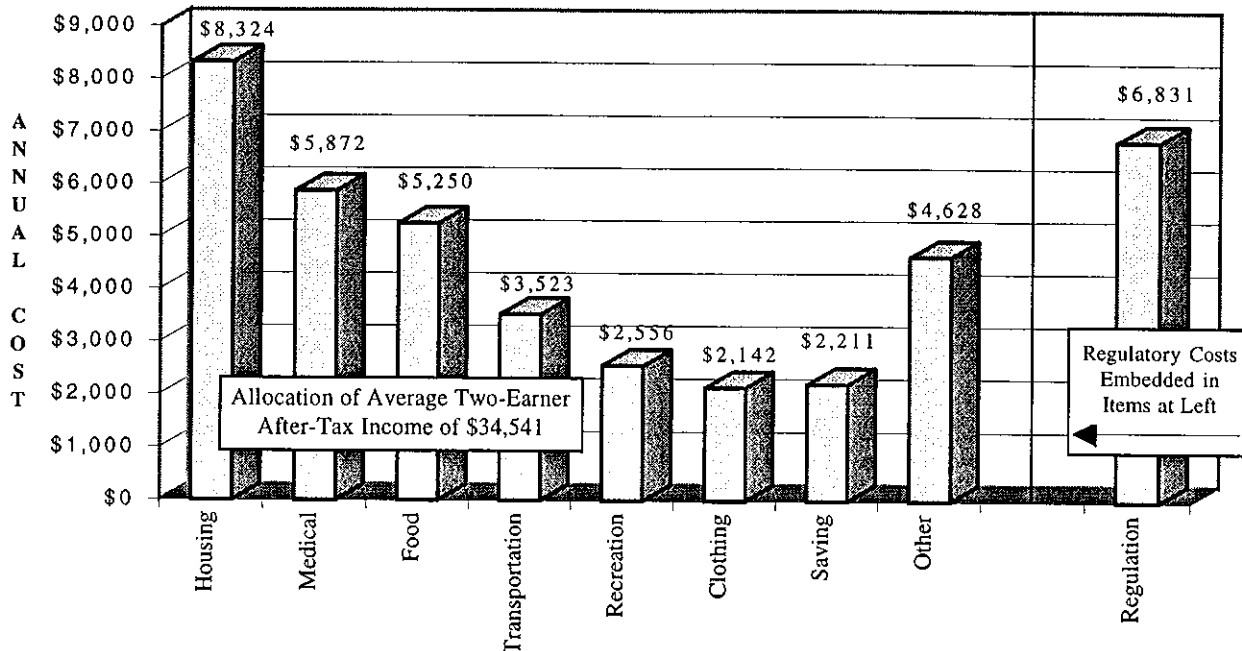
REGULATORY COSTS FOR FAMILIES

Regulatory costs absorb 19.8 percent of the typical family's after-tax budget

Although federal regulatory costs are usually imposed directly on firms and on lower-level governments, much of these costs are passed along to consumers and families. Regulatory costs are like hidden taxes: They can take the form of higher prices for consumer products, higher grocery and utility bills, higher health and housing costs, and increases in state and local taxes. It matters not at all whether the costs of government are imposed in the form of taxes or of regulations, or whether they are on- or off-budget: Depending on elasticities of demand and supply, firms, as always pass on varying portions of those costs.

Economy-wide regulatory costs of \$677 billion in 1996 break out to a cost of approximately \$6,831 for each American household.⁷ Adding this figure to the household's tax burden means that households spend a significant portion of their income on governmental ends. In fact, according to Americans for Tax Reform, Cost of Government Day, or "the date of the

Figure 4
Average Family of Four's 1995 After Tax Budget



Sources: Tax Foundation and Dr. Thomas D. Hopkins of the Rochester Institute of Technology; GAO.

calendar year, counting from January 1, on which the average American has earned enough in gross income to pay off all his direct and hidden taxes” (total federal, state, and local government spending plus regulatory costs) was July 3 in 1996.⁸ This means that Americans work more than half the year before they earn money for themselves.

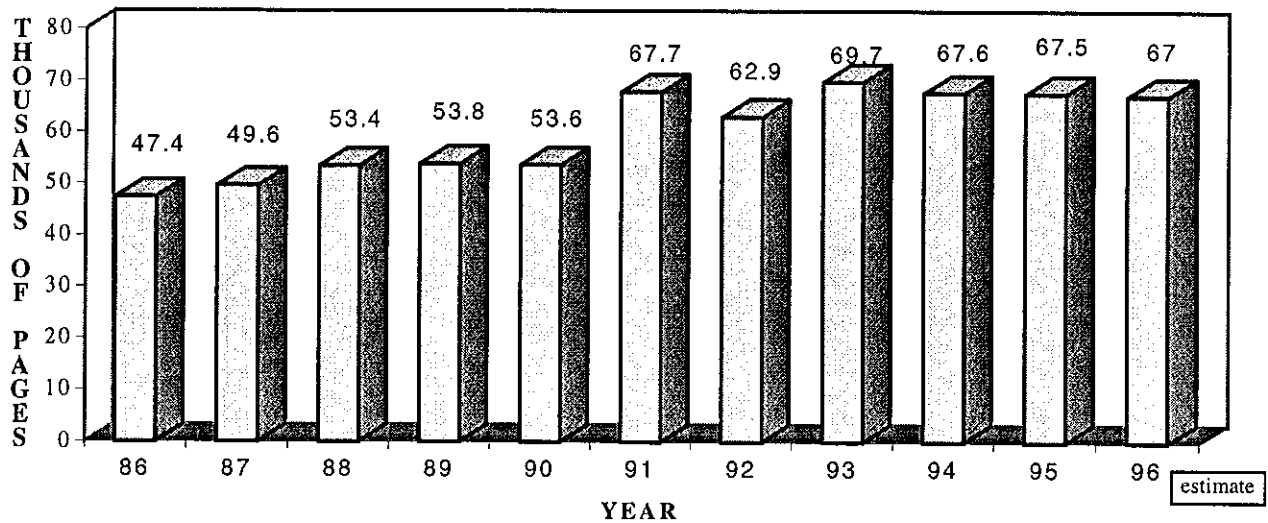
Regulatory costs might be thought of as being buried within the cost of items in the family budget. In the case of the typical two-earner family of four, the average after-tax income in 1995 was \$34,541, according to the Tax Foundation.⁹ Imputing typical household regulatory costs to this family means that 19.8 percent of the typical family’s after-tax income is spent on regulatory costs. As shown in Figure 4, regulatory costs exceed spending on every item in the budget except for housing: they exceed medical expenses, food, transportation, recreation, clothing, and savings.

Federal Register pages are at near-record levels.

PAGES AND PAGES

The *Federal Register* is the daily depository of all proposed and final federal rules and regulations. It’s a weak proxy for the level of regulation: Lengths of rules can vary, and administrative notices, presidential statements and other material are contained in the *Register* as well. Nonetheless, it’s one of the few metrics of regulatory trends that is widely cited because it’s one of the few that is easily accessible. The *Register* reached its all-time high of

Figure 5
Federal Register Pages 1986-1996



Source: Regulatory Program of the U.S. Government and *Federal Register*.

87,012 pages in 1980 under Jimmy Carter. It then declined to its recent low of 47,418 pages in 1986, partly as a result of a series of deregulatory efforts and enhanced central regulatory review at the Office of Management and Budget. The 1986 page count was the lowest level since 1974, but pages have rebounded since that time, as shown in Figure 5.

President Bill Clinton's first year in office produced 69,684 pages. This is the highest count since Jimmy Carter was president, 11 percent more than George Bush produced during his last year in office, and the highest in *any* president's first year (see Figure 6). The 1995 count of 67,518 is still the fourth-highest level in history. The decline in 1995 is perhaps attributable to the partial federal government shutdown during the fiscal budget debate, which undoubtedly slowed the promulgation of new regulations, and also to the Administration's awareness that regulatory reformers in the newly Republican Congress kept a watchful eye on *Federal Register* pages. Since 1994's Contract with America and elections, the page count has dipped slightly. As of Thursday, June 6, 1996, *Federal Register* pages stood at 29,000. By simple linear extension, that indicates page count of approximately 67,000 for 1996.

Enforcement budgets and staffing of regulatory agencies are at record highs.

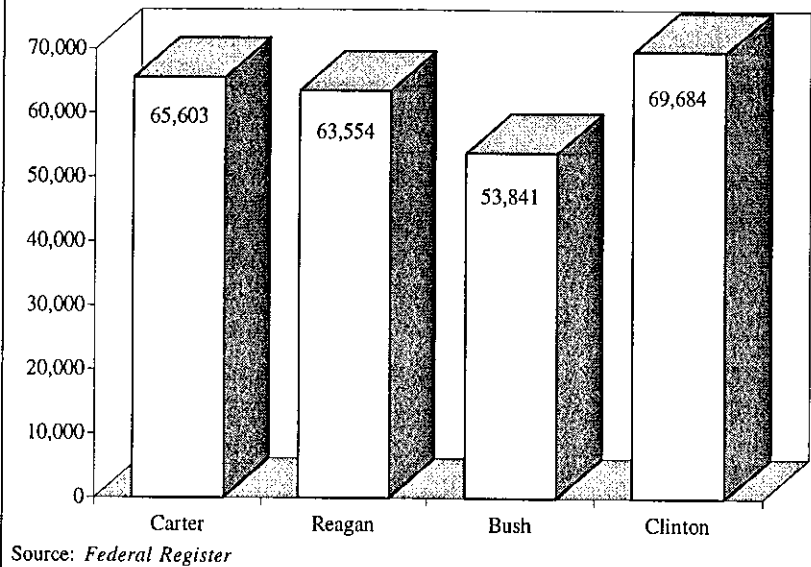
LEGIONS OF BUREAUCRATS

Both staffing and spending by regulatory agencies are at record highs, according to the Center for the Study of American Business (CSAB). Direct budgeted enforcement spending by 56 departments and agencies hit \$15.6 billion in fiscal year 1995. In constant 1987 dollars, spending has risen from \$4 billion in 1970 to \$11.9 billion in fiscal year 1995, a 198 percent increase in real terms (see Figure 7).¹⁰ Since these costs are actually part of the fiscal

budget, they come on top of the regulatory costs calculated by Hopkins, which represent off-budget compliance costs to the private sector and lower level governments. Allocated during the appropriations process, these enforcement costs are paid by the taxpayers.

Similarly, regulatory agency staffing reached a record 130,929 people in fiscal year 1995, compared to 69,946 regulatory personnel in 1970, according to CSAB. That's an 87 percent increase. Like enforcement spending — and like *Federal Register* pages, regulatory agency staffing declined during the early 1980s but began rising late in the decade.

Figure 6
First year *Federal Register* Pages: Carter through Clinton

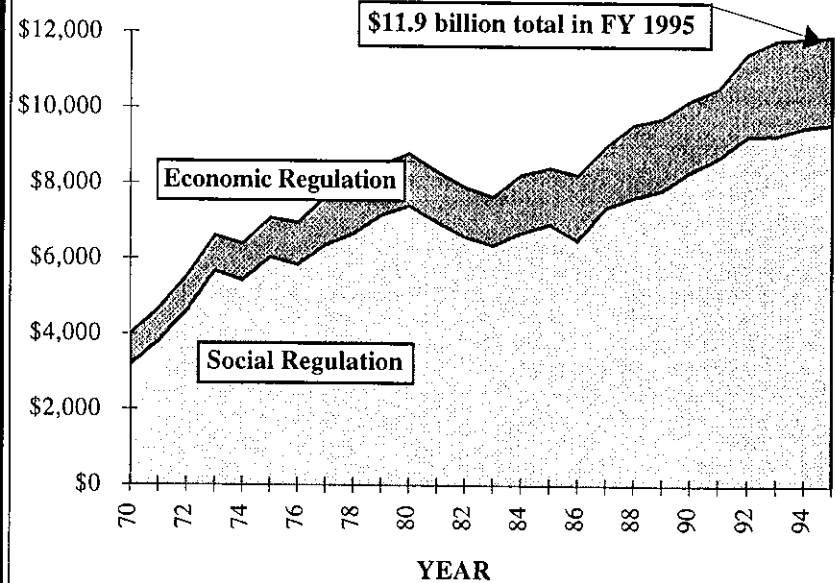


MORE REGULATIONS ON THE WAY

A little-known, twice-yearly publication called the *Unified Agenda of Federal Regulations* depicts the total number of proposed and final federal regulations and deregulatory actions by roughly 60 federal departments, agencies and commissions produced on which action is anticipated within 12 months. These rules affect both the private sector and lower level governments. The *Agenda* also presents some actions recently completed, as well as a handful of regulations planned for the long term. Mandated by the Regulatory Flexibility Act, the *Agenda* appears every April and October. The *Agenda* is a rough gauge of what's in the regulatory pipeline at the various agencies.

According to the April 1996 edition, federal agencies and departments now have 4,570 regulations at various stages.¹¹ Figure 8 breaks those 4,570 rules down by depart-

Figure 7
Federal Agency Enforcement Budgets 1970-1994
 (millions of constant 1987 dollars)



Source: Center for the Study of American Business, 1994.

Figure 8
Unified Agenda Entries by Department and Agency
April 1996

	Total Rules	Rules Affecting Small Business
Dept. of Agriculture	376	53
Dept. of Commerce	290	37
Dept. of Defense	142	25
Dept. of Education	55	1
Dept. of Energy	72	2
Dept. of Health & Human Services	272	76
Dept. of Housing & Urban Development	110	12
Dept. of Interior	356	20
Dept. of Justice	203	26
Dept. of Labor	107	34
Dept. of State	19	0
Dept. of Transportation	566	37
Dept. of Treasury	443	57
Dept. of Veterans's Affairs	101	3
Advisory Council on Historic Preservation	1	0
Agency for International Development	2	0
Archit. & Transportation Barriers Compliance Board	7	0
Commission on Civil Rights	2	0
Corporation for National & Community Service	1	0
Environmental Protection Agency	430	137
Federal Emergency Management Agency	18	3
General Services Agency	40	4
National Aeronautics & Space Agency	43	1
National Archives & Records Administration	18	1
Federal Council on the Arts and Humanities	1	0
Institute of Museum Services	1	0
National Endowment for the Arts	4	0
Equal Employment Opportunity Commission	9	0
Natioanl Endowment for the Humanities	5	0
National Science Foundation	3	0
Office of Federal Housing Enterprise Oversight	4	0
Office of Government Ethics	11	0
Office of Management & Budget	18	3
Office of Personnel Management	107	0
Panama Canal Commssion	5	0
Peace Corps	6	0
Pension Benefit Guaranty Corporation	17	0
Railroad Retirement Board	18	2
Selective Service System	1	0
Small Business Administration	53	49
Social Security Administration	67	2
Tennessee Valley Authority	1	0
U.S. Information Agency	2	0
Federal Acquisition Regulation	94	15
Commodity Futures Trading Commission	10	0
Consumer Product Safety Commission	17	1
Farm Credit Administration	22	0
Farm Credit System Insurance Corporation	4	0
Federal Communication Commission	90	65
Federal Energy Regulatory Commission	15	0
Federal Housing Finance Board	20	1
Federal Maritime Commission	7	0
Federal Reserve System	34	4
Federal Trade Commission	26	9
National Credit Union Administration	19	2
Federal Deposit Insurance Corporation	22	0
National Indian Gaming Commission	6	0
National Labor Relations Board	7	0
National Regulatory Commission	57	5
Securities and Exchange Commission	89	34
Surface Transportation Board	21	0
Thrift Depositor Oversight Board	3	0
TOTAL	4,570	721

ment, agency, and commission, and shows that the Department of Transportation, the Treasury Department, and the Environmental Protection Agency have produced the highest number of rules. Also shown in Figure 8 are the numbers of rules in each agency that affect small business.

Here are a few examples of rules in the works:

Health and Human Services:

- Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents
- Implementation of the Mammagraphy Quality Standards Act of 1992

Department of Labor:

- Occupational Exposure to Tuberculosis
- Defining and Delimiting the Term "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity"

Department of Transportation:

- Reduce Head Injuries Due to Contact With Upper Vehicle Interior
- Light Truck Average Fuel Economy Standards for MYs After 1997

The *Agenda* would be a far more useful document for policymakers if its data were officially summarized in chart form such as this each year — perhaps as a chapter in the fiscal budget. Including historical data, and clear summary distinctions between the numbers of rules that are regulatory and deregulatory, and the numbers that are major and minor would tremendously enhance the usefulness of the *Agenda*. As it stands now, interested citizens must comb through 1,437 pages of small, multi-column print to accumulate this information.

April's 4,570 entries are the fewest since 1992. Figure 9 depicts the number of entries in each April *Agenda* since 1986. Except for the most recent edition

and a temporary dip in 1992 during President Bush's year-long moratorium on regulations, the *Agenda* has grown rather steadily since 1988, when it contained 3,941 entries. The *Agenda* peaked in October 1994 (not shown in Figure 9) at 5,333 entries.

The dip in 1996 is not actually cause for celebration. As with the *Federal Register* page count, the April 1996 edition reflects the effects of the late-1995 partial governmental shutdown and a reluctance of agencies to issue new rules under a Republican-dominated Congress that has yet to secure comprehensive regulatory reform.¹² This suggests the decline is merely an artifact of personality and party, not a shift in genuine public policy. Moreover some agencies have significantly increased regulatory activity. The EPA, as will be seen, is one of these.

Regulators will impose rules costing at least \$11.6 billion annually during the next year.

While the *Agenda* does not summarize the total expected costs of anticipated rules, the *Agenda* does indicate whether or not a rule is "economically significant." This term means that a rule is projected to impose economic costs of *more than* \$100 million annually. As Figure 10 shows, a total of 116 rules at the pre-rule, proposed, final, recently completed or planned stages will cost *at least* \$100 million apiece. That means federal departments and agencies have in mind, at a minimum, \$11.6 billion in new regulatory costs.

UNCERTAIN BENEFITS

The public should know on an official basis how much it will cost to comply with the thousands of rules and regulations depicted in the *Unified*

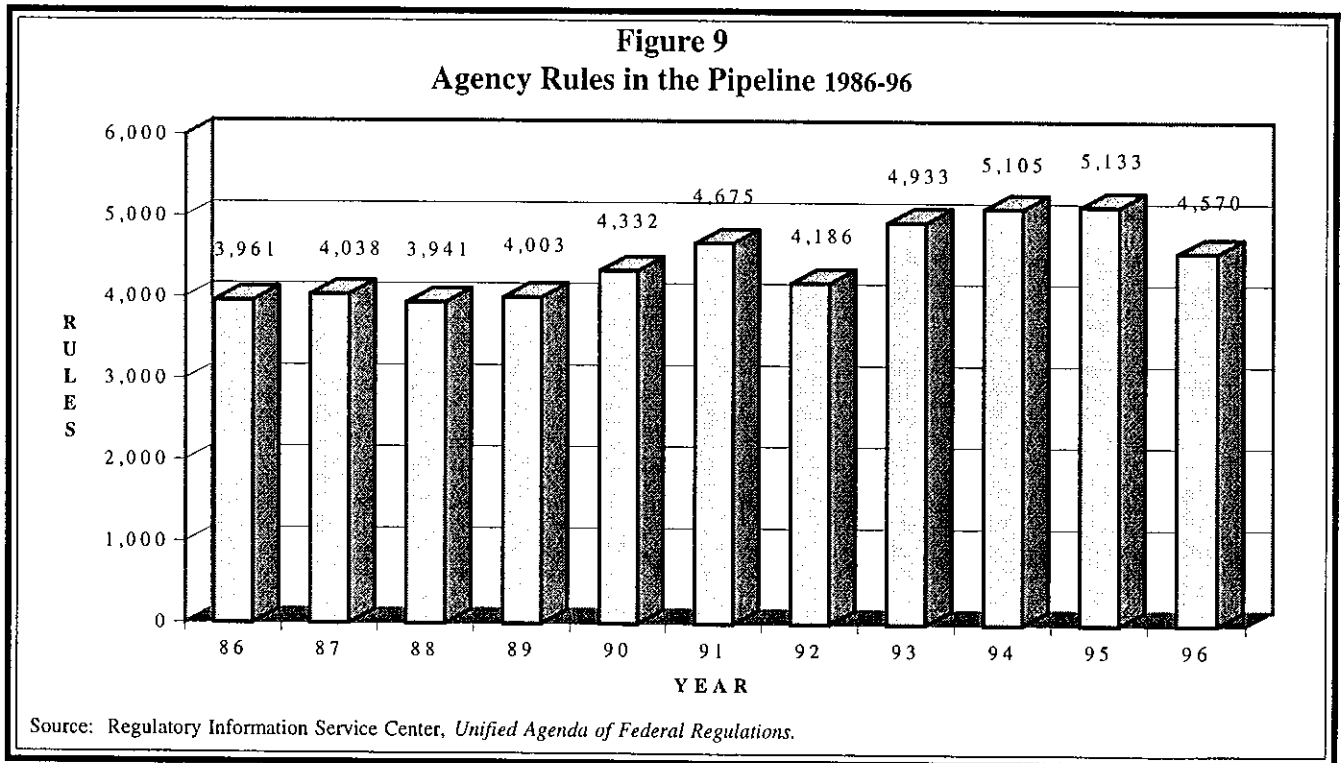


Figure 10
Major Rules in Regulatory Pipeline April 1996

	Prerule	Proposed	Final	Longterm	Completed	Total
Department of Agriculture	0	1	7	8	4	20
Department of Commerce	0	0	0	0	1	1
Department of Defense	0	0	0	0	0	0
Department of Education	0	0	0	0	0	0
Department of Energy	1	0	0	7	0	8
Health and Human Services	0	2	1	0	1	4
Housing and Urban Development	0	0	2	0	0	2
Department of Interior	0	1	0	0	0	1
Department of Justice	0	0	0	0	0	0
Department of Labor	0	7	0	3	0	10
Department of State	0	0	0	0	0	0
Department of Transportation	1	0	5	0	0	6
Department of the Treasury	0	0	0	0	0	0
Veterans' Affairs	0	1	0	0	0	1
Adv. Council on Historic Preservation	0	0	0	0	0	0
Agency for International Development	0	0	0	0	0	0
Architect. & Trans. Barriers Compliance Board	0	0	0	0	0	0
Commission on Civil Rights	0	0	0	0	0	0
Corp. for Nat'l and Community Service	0	0	0	0	0	0
Environmental Protection Agency	1	14	19	9	3	46
Federal Emergency Management Agency	0	0	0	0	0	0
General Services Administration	0	0	0	0	0	0
National Aeronautics and Space Admin.	0	0	0	0	0	0
National Archives and Records Admin.	0	0	0	0	0	0
Fed. Council on Arts and Humanities	0	0	0	0	0	0
Institute of Museum Services	0	0	0	0	0	0
National Endowment for the Arts	0	0	0	0	0	0
National Endowment for the Humanities	0	0	0	0	0	0
Equal Employment Opportunity Comm.	0	0	0	0	0	0
National Science Foundation	0	0	0	0	0	0
Ofc. Federal Housing Enterprise Oversight	0	0	0	0	0	0
Office of Government Ethics	0	0	0	0	0	0
Office of Management and Budget	0	0	0	0	0	0
Office of Personnel Management	0	0	0	0	0	0
Panama Canal Commission	0	0	0	0	0	0
Peace Corps	0	0	0	0	0	0
Pension Benefit Guarantee Corporation	0	0	0	0	0	0
Railroad Retirement Board	0	0	0	0	0	0
Selective Service System	0	0	0	0	0	0
Small Business Administration	0	0	0	0	5	5
Social Security Administration	0	0	1	0	0	1
Tennessee Valley Authority	0	0	0	0	0	0
U.S. Information Agency	0	0	0	0	0	0
Federal Acquisition Regulation	0	0	1	0	0	1
Commodity Futures Trading Commission	0	0	0	0	0	0
Consumer Product Safety Commission	0	1	0	0	0	1
Farm Credit Administration	0	0	0	0	0	0
Farm Credit System Insurance Corp.	0	0	0	0	0	0
Federal Communications Commission	0	1	0	4	0	5
Federal Energy Regulatory Commission	0	0	0	1	0	1
Federal Housing Finance Board	0	1	0	1	0	2
Federal Maritime Commission	0	0	0	0	0	0
Federal Reserve System	0	0	0	0	0	0
Federal Trade Commission	0	0	0	0	0	0
National Credit Union Administration	0	0	0	0	0	0
Federal Deposit Insurance Commission	0	0	0	0	0	0
National Indian Gaming Commission	0	0	0	0	0	0
National Labor Relations Board	0	0	0	0	0	0
Nuclear Regulatory Commission	0	0	0	0	1	1
Securities and Exchange Commission	0	0	0	0	0	0
Surface Transportation Board	0	0	0	0	0	0
Thrift Depositor Protection Oversight Board	0	0	0	0	0	0
TOTAL	3	29	36	33	15	116

Agenda. Guessing actual costs on the basis of which are “economically significant” and which are not, is not adequate. The \$100 million threshold is a floor only, and agencies need not specify whether an economically significant rule costs only \$100 million or one hundred times that amount. Additionally, any one of the thousands of *Agenda* rules that don’t qualify as “economically significant” can cost \$99 million and escape scrutiny. This gives agencies an incentive to break rules up so that they might slip through unstigmatized as economically significant.¹³

Figure 11
Per-Employee Regulatory Costs

Size of Firm	Regulatory Costs Per Employee
>500 employees	\$2,979
20-499 employees	\$5,298
<20 employees	\$5,532

Source: Thomas D. Hopkins, *Profiles of Regulatory Costs: Report to the Small Business Administration*, November 1995, Appendix A, Table A-3.

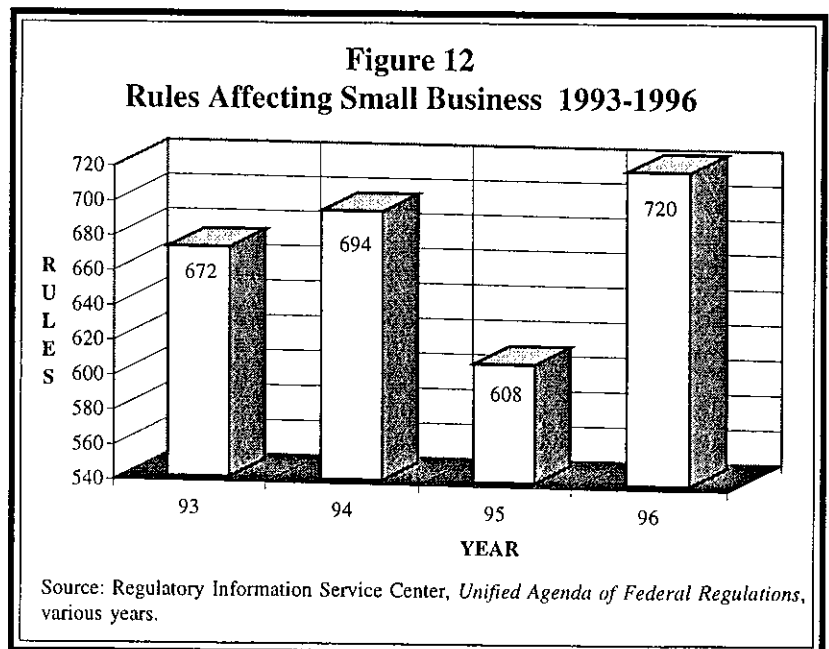
We know most of what we know about regulatory costs only on an unofficial basis thanks to work such as that by Hopkins. Cost-benefit estimates for economically significant rules are required by Executive Order, and the October 1994 *Agenda* inaugurated a new annual supplement called the *Regulatory Plan* in which agencies and departments offer some idea of their priorities for significant regulatory actions, and indicate expected costs and benefits.¹⁴ However, these cost and benefit estimates are still not required by law. They are instead “optional information” that agencies provide “at their discretion.”¹⁵ And of course, regulatory costs are not explicitly approved by Congress even when agencies determine their magnitude even though these costs are binding on the public.

New regulations affecting small business increased seven percent under President Clinton.

Agencies do a reasonable job of including a cost estimate for economically significant rules in their regulatory plans. The EPA, for example, listed 33 priority rules in its October 1995 *Regulatory Plan* and included at least a rudimentary cost estimate for all but two. But benefits are another story entirely. Of the 33 rules, only 10 presented quantitative estimates of benefits.¹⁶ It would seem improper to claim with confidence that regulation is doing good things rather than bad on the basis of such scanty evidence.

STRANGLING SMALL BUSINESS

As Figure 8 indicates, a portion of the regulations documented by the *Unified Agenda* affect small business directly. Regulations have disproportionate impacts on small businesses compared to their larger cousins since the



fixed costs of compliance can be spread out over higher sales by large firms, an effect Professor Thomas Hopkins has documented explicitly. While total regulatory burdens increase the larger a firm is, Hopkins' October 1995 study for the U.S. Small Business Administration showed that burdens per employee are far higher for smaller firms. According to Hopkins, firms with more than 500 workers face an average per-employee cost of regulation of \$2,979. But small firms with fewer than 20 employees pay \$5,532 per worker, as shown in Figure 11. Small firms pay 1.86 times more in regulatory

Figure 13
Selected Federal Workplace Regulations Imposed on Growing Businesses*

ONE EMPLOYEE

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

4 EMPLOYEES: ALL THE ABOVE, PLUS

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

15 EMPLOYEES: ALL THE ABOVE, PLUS

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

20 EMPLOYEES: ALL THE ABOVE, PLUS

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

25 EMPLOYEES: ALL THE ABOVE, PLUS

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

50 EMPLOYEES: ALL THE ABOVE, PLUS

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

100 EMPLOYEES: ALL THE ABOVE, PLUS

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

**Assumes non-union, non-government contractor, with interstate operations and a basic employee benefits package. Includes general workforce-related regulation only. Omitted are categories such as environmental and consumer product safety regulations, and regulations applying to specific types of businesses such as mining, farming, trucking and financial firms, which are subject to additional regulations.*

costs than large ones.¹⁷ This is especially ironic given that small firms are often exempted from regulations. Hopkins stresses the importance of this discrepancy in burdens between large and small: Over 90 percent of the firms in the U.S. have fewer than 20 employees.¹⁸ The largest component of regulatory costs for small firms is paperwork costs, primarily tax compliance.

Legislation enacted March 29, 1996 to strengthen the Regulatory Flexibility Act by providing judicial recourse for small firms where agencies fail to adequately assess regulatory impacts should offer some relief for small businesses by allowing them to challenge agency regulatory impact findings in court. The bill also contained provisions allowing Congress an opportunity to review agency rules before they are effective.¹⁹ Nevertheless, the immediate trend is an increase in the number of rules affecting small businesses even as the total number of rules in the pipeline has declined over the past year. Of the 4,570 total rules in April 1996, 721 of them, or 15.8 percent, are said by agencies to affect small business, as Figure 8 illustrates. However, as shown in Figure 12, that is a 7.3 percent increase over 1993's 672 rules, and a 33 percent increase over 1995, when agencies indicated that 608 of their rules impacted small business.

Of course, firms also become subject to increased regulations as they grow. When regulations are enacted, they often exempt small businesses precisely because policymakers recognize that burdens are disproportionate. New Department of Agriculture meat safety rules, for example, must be met by large firms within 18 months, but smaller firms, which produce one-quarter of the nation's supply, have up to 42 months to comply.²⁰ Though necessary, such policies inadvertently punish growth. As Figure 13 shows, laws affecting U.S. business pile up as additional employees are added to the payroll. Regulation both punishes one for being small, and punishes one for growing.

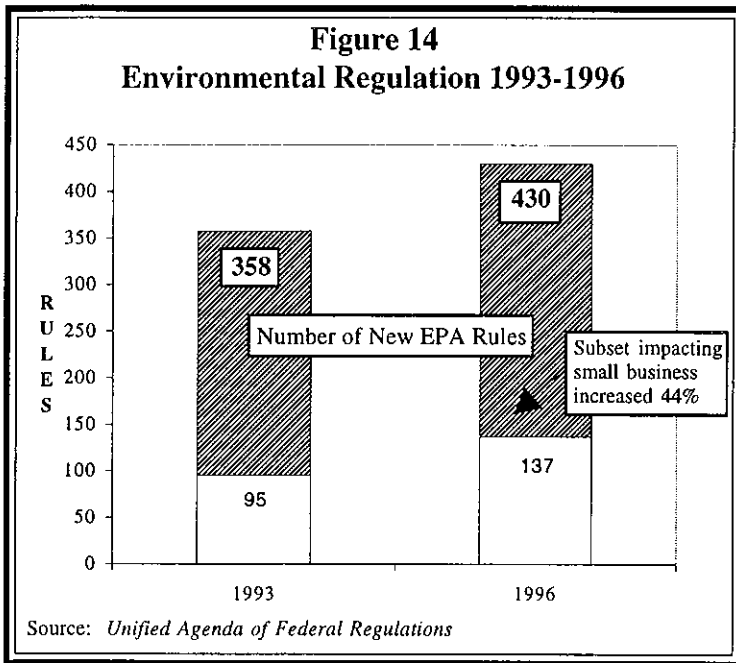
HOW MUCH REINVENTION?

In April 1996, the *Unified Agenda of Federal Regulations* was renamed the *Unified Agenda of Federal Regulatory and Deregulatory Actions*. Despite the new name and its overall smaller size, deregulation and "reinventing government" are not yet carrying the day.

Consider the record of the Environmental Protection Agency (EPA), long known as a source of regulatory horror stories. During the past four years, the EPA's total number of *Agenda* "pipeline" entries increased from 358 to 430 — a 20 percent increase during this supposed era of "downsizing government." Of the 430 rules anticipated by the EPA in their April agenda, 46 are considered "economically significant," meaning that each will have economic impacts of at least \$100 million annually. Nine of those 46 are

The largest component of regulatory costs for small firms is paperwork costs.

Benefit estimates were provided for only 30 percent of major EPA rules.



efforts to “reinvent,” leaving 37 rules that will cost a minimum of \$3.7 billion annually. These regulatory costs, of course, are off-budget charges that will come on top of the EPA’s annual appropriation from taxpayers, which will be approximately \$6.5 billion during fiscal year 1997.

The EPA delivers a particularly serious blow to small business. Since 1993, the subset of EPA’s total rules that impact small business has risen from 95 to 137, a 44 percent jump (see Figure 14). Rules affecting small business now account for 32 percent of EPA’s *Agenda* entries.

Of these 137 rules EPA plans to impose on small business, 19 are listed as “economically

significant” (\$100 million-plus annually), and only two of these are part of the reinventing government effort. In other words, EPA expects to impose — at a minimum — new regulations costing \$1.7 billion on small business (17 economically significant rules times \$100 million apiece). On top of the pending increase in the minimum wage, this will have a significant impact on smaller firms.

As for the thousands of federal rules that don’t qualify as “economically significant,” it is anybody’s guess how many may cost just below \$99 million and thus escape being tagged “significant.” As already noted, that loophole allows regulatory burdens to escape the mandatory cost scrutiny that applies to economically significant rules, and gives agencies an incentive to break up high cost rules into smaller ones.

To be sure, some agencies appear to be making a good-faith effort to be net deregulators (though one can legitimately argue that they still have no proper role in the free marketplace and should be dismantled). The Small Business Administration (SBA), for example, has reduced its number of total regulations listed in the *Agenda* by nearly 25 percent. In 1996, while 49 of its 53 regulations affect small businesses, almost half are aimed at revising regulations and paperwork to reduce burdens or duplication, or streamline government. In fact, all of the “economically significant” rules proposed by the agency are efforts to reduce government burdens.

New Economically Significant Rules Reviewed by OMB Will Cost at Least \$13.5 Billion Annually

OMB REVIEW

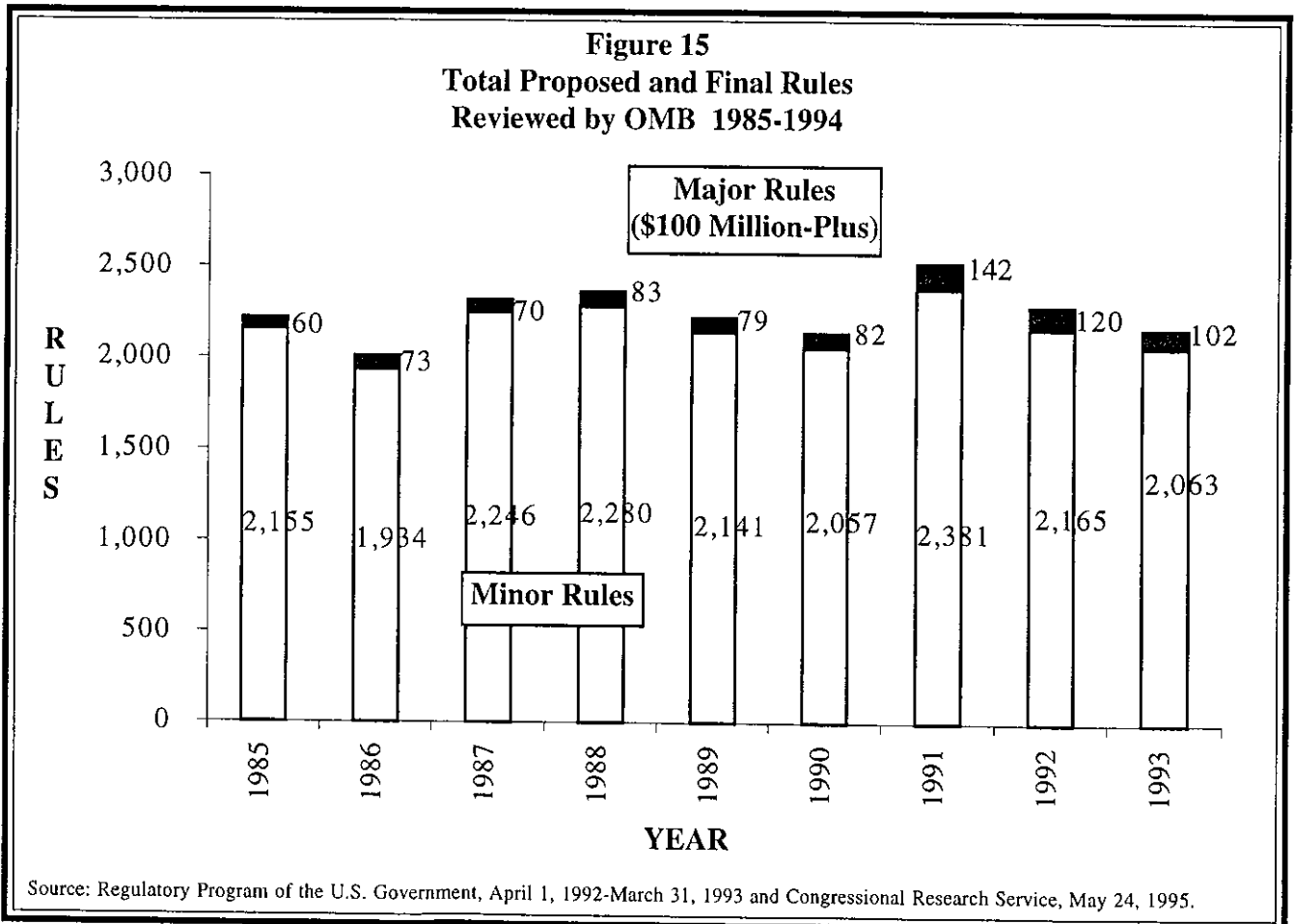
The Office of Management and Budget’s (OMB) regulatory review responsibilities were enhanced by President Ronald Reagan’s Executive

Order 12291. Since then, the various federal departments and agencies have submitted more than 2,000 proposed and final rules each fiscal year for review to OMB.²¹ Reagan's Executive Order required all rules to be submitted for review unless specifically exempted.²² Like *Federal Register* pages, low-tide occurred in 1986 when 2,007 rules were submitted for OMB review (See Figure 15). The annual number of reviews has oscillated since that time, with the peak occurring when 2,523 proposed and final rules were reviewed in 1991.²³

More than 2,000 rules went to OMB for review under E.O. 12291.

Total rules reviewed under the auspices of E.O. 12291 declined sharply in 1992 when President Bush's regulatory moratorium was in effect. E.O. 12291 was operative through October 1993, at which time Clinton's replacement executive order, E.O. 12866 took effect. The new order did not require that all rules be submitted to OMB for review, but only that "significant" rules be submitted. Of these, "economically significant" rules — similar to "major" rules as defined by E.O. 12291 in that they impose costs of \$100 million or more annually — must be accompanied by a cost-benefit analysis.

While more than 2,000 rules went to OMB annually for review under E.O. 12291, detailed written cost-benefit evaluations were required only for those "major" \$100 million-plus rules, or for rules that otherwise had



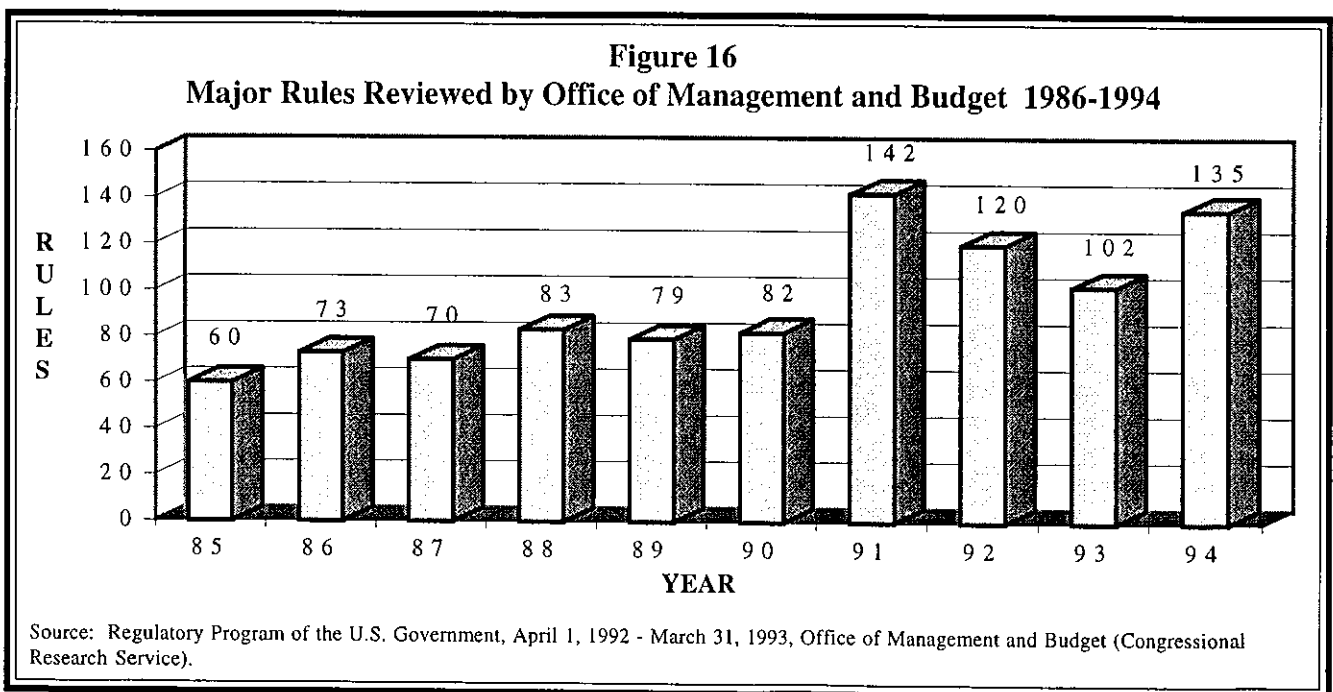
substantial impacts on employment, inflation, or industry viability.²⁴ E.O. 12291's goal was to ensure that "net social benefits" are maximized. Those rules which didn't exceed the threshold were classified as minor. For purposes of analysis, major rules up until October 1993 are largely comparable to those considered "economically significant" by Clinton's E.O. 12866 since that time: Generally, each cost at least \$100 million, and each require review at OMB.

In 1994 there were 135 economically significant rules, a 32 percent increase over 1993.

Since OMB places special emphasis on rules costing more than \$100 million, it is instructive to trace their growth. Figure 16 isolates the major rules embedded in Figure 15 (the years 1985-93), and economically significant rules for 1994. The total number of major rules from all departments and agencies stood at a low of 60 in 1985, and thereafter began a staggered climb. Major rules peaked in 1991 at 142. That count was 137 percent higher than 1985, and 73 percent higher than the 82 major rules the year before.

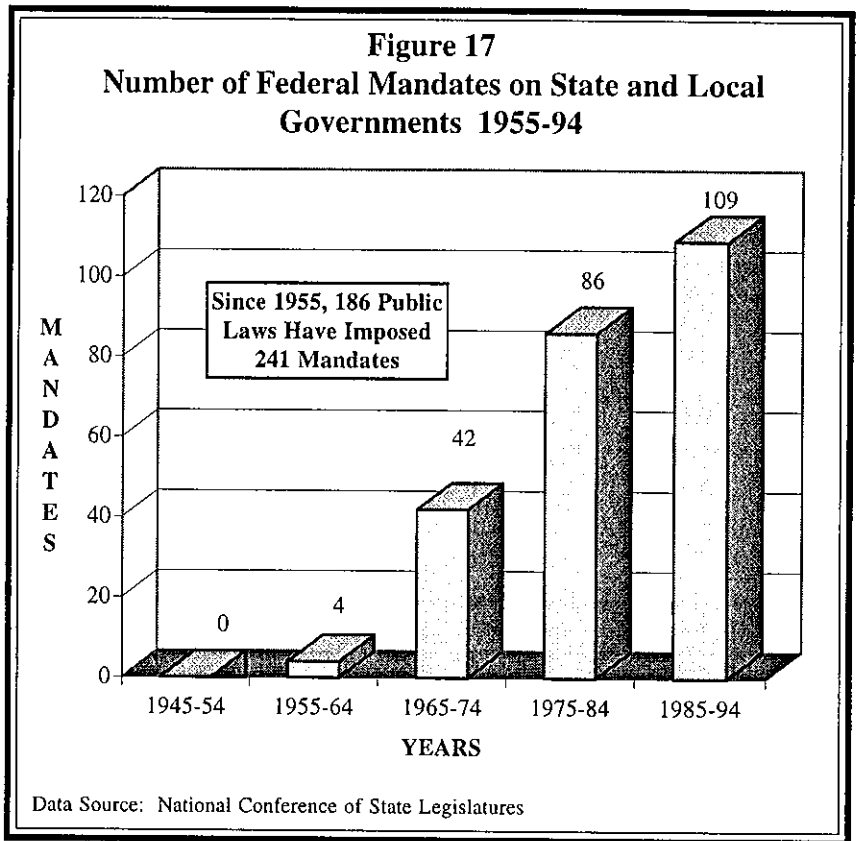
Though major rules did decline temporarily after 1991, they have now almost fully recovered. In 1994 there were 135 economically significant rules, a 32 percent increase over the 1993's 102 major rules. Since economically significant rules cost a minimum of \$100 million, that means agencies in 1994 were in the process of imposing *at least* \$13.5 billion in new regulatory costs on the public, assuming those rules passed review.²⁵

The required written cost-benefit evaluations of major and economically significant rules, called Regulatory Impact Analyses (RIAs), are one of the primary devices OMB uses to make its regulatory assessments. But except in cases where costs are so transparent or excessive that one can tell beforehand that the \$100 million threshold will be exceeded, there is no way of knowing the full economic significance of any rule unless an RIA or its



equivalent is completed at the outset. Major rules that undergo cost-benefit analysis have averaged less than 4 percent of the total number of rules, as Figure 15 makes clear. Uncertainty prevails about the impacts of the remaining 96 percent of rules. As noted, perhaps many of these other rules would qualify as “major” if they were examined in depth. In this light, the heated opposition to executive review and benefit-cost analysis appear indefensible; the simple reality is that most rules take effect without *any* public accounting for their economic consequences.

While the growth in major rules warrants concern in itself, this growth is all the more noteworthy because RIA quality varies across agencies. Benefit calculations, whether for health and safety concerns or for economic effects, are often incomplete. Economist Robert Hahn of the American Enterprise Institute has found in examining major proposed and final regulations issued by five agencies (EPA, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, the Consumer Product Safety Commission, and the National Highway Traffic Safety Administration) that about half would not pass a cost-benefit test.²⁶



UNFUNDED MANDATES

A bill to reduce future the burdens of federal mandates impacting states and localities — laws such as landfill standards, waste water treatment requirements, drinking water standards, the Americans with Disabilities Act, and stormwater regulations — was signed into law in early 1995. In the Republican’s Contract with America, mandate reform was a component of the House “Job Creation and Wage Enhancement Act.” According to a Price Waterhouse study, the projected costs for the five years 1994 through 1998 for the following mandates will total \$54 billion:²⁷

- 1) Clean Water Act
- 2) Clean Air Act
- 3) Resource Conservation and Recovery Act (solid waste disposal)
- 4) Safe Drinking Water Act

- 5) Asbestos abatement
- 6) Lead paint abatement
- 7) Endangered Species Act
- 8) Americans with Disabilities Act
- 9) Fair Labor Standards Act
- 10) Underground storage tank regulations

These mandates are equally familiar to the private sector. Last year's mandate relief legislation was supported by President Clinton, the Chamber, the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors. The bill:

- Provides for a majority point of order to lie against any bill that imposes mandates without authorizing funding to state, local, and tribal governments. It does not say "no money, no mandate" as some had urged;
- Requires that CBO estimate the costs of mandates to state, local, and tribal governments (if over \$50 million) and to the private sector (if over \$200 million). A point of order lies against the bill if the estimate isn't provided;
- Requires that agencies assess costs and benefits to governments of major regulations that include federal mandates on state and local governments if costs are expected to be greater than \$100 million.

A small firm's regulatory costs-per-employee are almost double those of large firms.

However, *existing* mandates were not made subject to the mandate relief bill, meaning there is still a great deal of concern about them, along with loopholes that potentially render the unfunded mandate bill a "toothless tiger" unable to fulfill its promises for controlling future mandates.²⁸

The mandate burden grew especially severe in recent years. According to analysis of data from the National Conference of State Legislatures (NCSL), since 1955, 186 Public Laws have imposed a total of 241 statutory mandates or preemptions on states and localities (NCSL registered only 6 mandates prior to 1955).²⁹ (See Figure 17.) Forty-five percent of these mandates and preemptions have been enacted just since 1985. The 100th Congress alone passed 31 mandates, while the runner-up 99th Congress imposed 29.

WHAT SHOULD CONGRESS DO?

We cannot assume that just because an agency engages in behavior called "regulating" and imposes things called "regulations," that it is neces-

sarily doing good rather than harm. On the other hand, agencies can hardly be faulted for not guaranteeing net benefits because they still are not mandated to do so, nor can they be faulted for taking advantage of their lack of public accountability to expand their turf by regulating in the absence of a demonstration of need. Congress must pick up this fumbled ball.

The most important element of controlling the regulatory state is to make Congress directly accountable for every dollar of costs agencies impose on the public, preferably by requiring Congress to vote to approve agencies' final rules. Implementing some form of regulatory budget can help also. Congress could start small, by simply requiring that widely dispersed publicly-available data be consolidated and presented in summary form as a chapter in the annual fiscal budget or the *Economic Report of the President*. Congressional approval — rather than agency approval — of both regulations and regulatory costs should be the ultimate goal. For the existing \$677 billion regulatory state, a Regulatory Reduction Commission, similar to the military base closure and realignment commission, would be a sensible approach.

It is especially important to control regulatory costs in an environment in which deficit cutting and budget balancing are all the rage. If Congress' only choices are to do its handiwork either by increasing the deficit, or by issuing new regulations, a balanced budget constraint will impel Congress to increase regulatory burdens as an alternative to spending money it does not have. While Congress may have its own hands tied by a balanced budget amendment, forcing someone else to pay with their own money does not increase the deficit, but lets Congress take credit for good deeds financed by others. That is especially dangerous. Since regulatory burdens are not formally tabulated, considerably more damage may be done by imposing hidden regulatory costs than by increasing the deficit. We at least can know the size of the deficit. The actual scope of the total regulatory burden remains a mystery.

While many are accustomed to thinking of the deficit as the extent of the government's unfunded costs, it makes sense to add regulatory costs to the deficit to get a more realistic picture of unfunded government. As the deficit becomes more of a concern, government will have a greater incentive to carry out its desires through regulation rather than higher taxes. This is why direct congressional accountability for regulation and some form of a formal regulatory budget are necessary.

Agencies rarely provide airtight cost-benefit data because they are not required to do so by law. Therefore it is hard to blame them for emphasizing the very regulating they were set up to do and downplaying the cost-benefit analyses that can work against their own self interest by showing that benefits often do fail to exceed costs. Commenting on the earlier-mentioned study by American Enterprise Institute Resident Scholar Robert

The number of unfunded mandates on state and local governments is still a problem.

Hahn — which found that half of all environmental and health and safety regulations enacted since 1990 accompanied by accessible data do not feature benefits exceeding costs — Thomas Hopkins points out that “such findings would be of limited significance if regulatory compliance costs in the aggregate were small — but they are not.”³⁰

Too much of current regulatory control relies on the application of executive orders and the good faith of agencies. As Professor Hopkins put it in testimony to Congress:

[A] very large segment of regulatory costs is in practice beyond the reach of any Executive Order. As a rough approximation, independent agencies are responsible for most price and entry regulation, and most paperwork regulation is tax compliance related; neither traditionally has received close scrutiny in the regulatory review process. The principal domain of OMB regulatory review is environmental and other social regulation, or just a third of all regulatory costs. Within this domain, agency cooperation with OMB review is tempered by the fact that many regulatory statutes as now worded are hostile at best to benefit-cost analysis.³¹

It is especially important to control regulatory costs in an environment in which deficit cutting and budget balancing are all the rage.

Unfortunately, Americans cannot vote out offending regulators, even as Congress lays blame for excessive regulation at the regulators’ feet. That is why the most important steps to control this unaccountable regulatory enterprise are (1) to make regulatory costs as transparent as direct taxes, and then (2) to ensure that Congress bears direct responsibility to voters for every dollar of those costs. Again, that means, respectively, implementing a regulatory budget modeled on but less sweeping than the fiscal budget, and second, requiring Congress to vote its approval of every significant regulation that agencies impose on the private sector and lower level governments.³¹

In the meantime, Congress could make the *Unified Agenda* more informative and more user-friendly by summarizing the material it contains. Doing so would make the extent of the regulatory burden more explicit and evident to policymakers and other interested parties. For example, five-year historical tables depicting the total numbers of rules within each agency, and the numbers affecting small businesses and governments, would be extremely valuable to third-party monitors of the regulatory process, such as university scholars. Such information could be presented in tabular or graphical form, allowing researchers to better grasp the regulatory burden and eventually construct a regulatory system that is above-board, fair and responsive to the public.

ABOUT THE AUTHOR

Clyde Wayne Crews Jr. is the Fellow in Regulatory Studies at the Competitive Enterprise Institute, where he studies costs and trends in federal regulation and other economic issues. Wayne was formerly a legislative aide to Senator Phil Gramm (R-TX) responsible for regulatory reform and welfare reform issues. Prior to working for Gramm, Wayne was an economist at Citizens for a Sound Economy Foundation (CSEF), and before that, an economist at the Food and Drug Administration. He has published articles on economic policies in outlets such as the *Wall Street Journal*, *Journal of Commerce*, the *Washington Times*, the *Electricity Journal*, the *Journal of Regulation and Social Costs*, and others. Wayne holds an M.B.A. from the College of William and Mary, and a B.S. from Lander College in Greenwood, S.C.

Special thanks to Daniel A. Nodes, CEI Research Associate, for his valuable assistance in preparing the research for this monograph.

ENDNOTES

- ¹U.S. Small Business Administration, Office of Advocacy, *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress*, October 1995, p. 28.
- ²Jonathan Rauch, "The Regulatory President," *National Journal*, November 30, 1991, p. 2903.
- ³Thomas D. Hopkins, *Profiles of Regulatory Costs: Report to the Small Business Administration*, November 1995, Appendix A, Table A-3.
- ⁴Prepared Statement of Thomas D. Hopkins, Rochester Institute of Technology, Rochester, New York, Before The House Government Reform and Oversight Committee, National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee, May 16, 1996.
- ⁵ Hopkins, 1996.
- ⁶ See Small Business Administration, p. 28 or Hopkins, 1995, Appendix A, Table A-1.
- ⁷ Hopkins, 1995, Appendix A, Table A-2.
- ⁸ *Cost of Government Day: July 3, 1996*, Americans for Tax Reform Foundation, Washington, D.C.
- ⁹ Arthur P. Hall, *Tax Foundation Special Report: Taxes Force American Family to Tighten Belt*, November 1995, No. 54, p. 3.
- ¹⁰ Melinda Warren, *Reforming the Federal Regulatory Process: Rhetoric or Reality?*, Center for the Study of American Business, Occasional Paper 138, June 1994.
- ¹¹ Regulatory Information Service Center, *Unified Agenda of Federal Regulatory and Deregulatory Actions*, Reprinted from *Federal Register* of Monday, May 13, 1996, Volume 61, No. 93, April 1996.
- ¹² See Cindy Skrzycki, "Slowing the Flow of Federal Rules: New Conservative Climate Chills Agencies' Activism," *Washington Post*, February 18, 1996, p. A1 (First in a four-article series entitled "De-Facto Deregulation: Changing the Rules of the Game.")
- ¹³ Christopher DeMuth, now President of the American Enterprise Institute, once noted that during President Jimmy Carter's review programs – the era in which the \$100 million threshold was initiated – that there was "a suspiciously large number of regulations...projected to cost \$90-95 million." Christopher DeMuth, "Constraining Regulatory Costs, Part One: The White House Review Programs," *Regulation*, January/February 1980, p. 21.
- ¹⁴ Executive Order 12866 requires that agencies include in their Regulatory Plan "(1) a narrative statement of its regulatory priorities; and (2) a description of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year." See Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, Vol. 1, Reprinted from the *Federal Register* of Monday, November 14, 1994, volume 59, No. 218, p. 50006.
- ¹⁵ Regulatory Information Service Center, 1994, p. 57008.
- ¹⁶ Compiled from Regulatory Information Service Center, *The Regulatory Plan and the Unified Agenda of Federal Regulations*, Reprinted from the *Federal Register* of Tuesday, November 28, 1995, Volume 60, No. 228.
- ¹⁷ Hopkins, 1995, Appendix A, Table A-7a.
- ¹⁸ Prepared Statement of Thomas D. Hopkins, Rochester Institute of Technology, Rochester, New York, Before the House Government Reform and Oversight Committee, National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee, May 16, 1996.
- ¹⁹ These provisions were signed into law as a part of H.R. 3136, the Contract with America Advancement Act, which also included an increase in the debt ceiling and a Social Security earnings limitation increase.
- ²⁰ Rick Weiss, "President Orders Overhaul of Meat Safety Inspections," *Washington Post*, July 7, 1996, p. A1.

- ²¹ Part of the reason this figure is smaller than the 4,000-plus rules that appear in the *Agenda* is that the *Agenda* includes rules in the prerule, longterm, and completed categories. Refer to Figure 10.
- ²² Exempted from review were certain independent regulatory agencies and commissions, such as the Nuclear Regulatory Commission, the Consumer Product Safety Commission, the Federal Reserve, rules dealing with emergencies, and rules with statutory deadlines.
- ²³ Rules reviewed at the 20 most active agencies in 1991 -- the last year for which comprehensive data was published -- were as follows, in descending order: Agriculture (418), Health and Human Services (402), Transportation (257), Commerce (208), Environmental Protection Agency (185), Justice (133), Housing and Urban Development (125), Education (124), Interior (115), Office of Personnel Management (87), Veterans Affairs (71), Treasury (52), Labor (47), State (46), General Services Administration (37), Small Business Administration (34), Energy (33), Defense (25), Railroad Retirement Board (21), Federal Emergency Management Agency (19). From the *Regulatory Program of the United States Government*, April 1, 1992-March 31, 1993, p. 606.
- ²⁴ Summarized in "Executive Order No. 12291: Annual Report for 1990," *Regulatory Program of the United States Government*, Appendix IV, p. 703.
- ²⁵ It appears counterintuitive that the population of economically significant rules reviewed in 1994 would impose baseline costs of \$13.5 billion, while -- as shown earlier -- the larger population of rules in the 1995 *Unified Agenda* will impose just \$11.6 billion in baseline costs from economically significant rules. A large part of the reason is the de-facto regulation that occurred under the Republican Congress has reduced the numbers of significant rules. Unfortunately, year-to-year parallel comparisons, and reconciliations of rules reviewed with the total population of rules aren't yet fully feasible for two reasons: (1) the 1996 *Agenda* is the first to specify which of its entries is "economically significant," leaving no means to compare it to earlier years' *Agendas*; (2) Data depicting the numbers of economically significant rules reviewed at OMB during 1995 aren't yet available to compare to 1994.
- ²⁶ See Robert W. Hahn, "Regulatory Reform: What Do the Government's Numbers Tell Us?" in Robert W. Hahn, editor, *Risks, Costs, and Lives Saved* (New York: Oxford University Press: 1996), pp. 208-253.
- ²⁷ *Impact of Unfunded Federal Mandates on U.S. Cities: A 314-City Survey*, The United States Conference of Mayors and Price Waterhouse, October 26, 1993.
- ²⁸ See Angela Antonelli, "Promises Unfulfilled: Unfunded Mandates Reform Act of 1995," *Regulation*, 1996, Number 2, pp. 44-52.
- ²⁹ Compiled from data presented in National Conference of State Legislatures, *Hall of the States Mandate Monitor 1994 Mandate Catalog*, Special Edition, December 1994.
- ³⁰ Hopkins, Prepared Statement, May 16, 1996.
- ³¹ For further detail, see Clyde Wayne Crews Jr., *Promise and Peril: Implementing a Regulatory Budget* (Washington, D.C.: Competitive Enterprise Institute, April 1996). See also Christopher C. DeMuth, "The Regulatory Budget," *Regulation*, March/April 1980, pp. 29-44.

The Competitive Enterprise Institute

The Competitive Enterprise Institute is a public policy organization committed to advancing the principles of free enterprise and limited government. Founded in 1984 by Fred Smith, Jr., CEI promotes classical liberal ideals through analysis, education, coalition-building, advocacy, and litigation. A non-profit, tax exempt organization under Section 501 (c) (3) of the Internal Revenue Code, CEI relies entirely on donations from foundations, corporations, and private individuals. Contributions are tax deductible to the extent allowed by law.

For more information, contact:

COMPETITIVE ENTERPRISE INSTITUTE

1001 Connecticut Avenue, N.W.

Suite 1250

Washington, D.C. 20036

Phone: (202) 331-1010

Fax: (202) 331-0640

E-mail: info@cei.org

Web site: <http://www.cei.org>