



COMPETITIVE ENTERPRISE INSTITUTE

# Ten Thousand Commandments

An Annual Policymaker's Snapshot  
of the Federal Regulatory State

Clyde Wayne Crews Jr.

1999 Edition

Competitive Enterprise Institute

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# TEN THOUSAND COMMANDMENTS

AN ANNUAL POLICYMAKER'S SNAPSHOT OF THE FEDERAL REGULATORY STATE

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## EXECUTIVE SUMMARY

The federal government spent \$1.65 trillion in 1998 to carry out its domestic discretionary, military, entitlement, debt service and other ends.<sup>1</sup> Those costs encompass the entire on-budget scope of the federal government. But there is more to the reach of the federal government than the sum of the taxes we send to Washington. Compliance costs of environmental, safety and economic regulations imposed by Uncle Sam are known to total hundreds of billions of dollars every year. Yet since detailed, formal official accountings for regulatory costs rarely exist, these costs occur “off-budget” and largely escape even the arguably insufficient controls that the fiscal budget encounters. Thus it is unclear precisely what Americans pay, and what level of benefits they get in return for regulatory compliance costs. Too often, regulatory discipline relies on the good faith of agencies to voluntarily disclose the costs and benefits of their regulations rather than a *requirement* that they do so. Yet in the face of this uncertainty, the 1998 *Federal Register* contained the highest number of pages since the Carter presidency.

The precise price tag of federal regulations will always remain unknown. But compiling disparate government and independent data depicting regulatory costs and numbers of rules can help make the whole enterprise more comprehensible. Some of the highlights of this year's edition of *Ten Thousand Commandments* follow.

- The total costs of complying with off-budget social regulations total up to \$230 billion according to the Office of Management and Budget. A more broadly constructed competing estimate that includes economic regulatory costs and paperwork costs pegs regulatory expenditures at \$737 billion in 1998. This latter amount is equivalent to 44 percent the size of all federal outlays of \$1.6 trillion. In other words, the off-budget government is approaching half the size of the budgeted one.
- Regulatory costs of \$737 billion exceed all U.S. corporate pretax profits, which stood at \$640 billion in 1996.
- Regulatory costs exceed the \$542 billion gross national product of Canada.
- The average family of four's 1997 after-tax income of \$36,423 contained \$7,239 in hidden regulatory costs. Thus regulatory costs consume 20 percent of the after-tax family budget.
- Regulatory costs absorb 9 percent of U.S. gross domestic product, \$8,499 billion last year.
- Agencies spent \$17.5 billion to police the regulatory state in 1998. Counting the \$737 billion in off-budget costs, that brings the total regulatory burden to \$754 billion.

- The 1998 *Federal Register* contained 68,571 pages, the highest level since Jimmy Carter's presidency and a 6 percent jump over 1997.
- Agencies issued 4,899 final rules in 1998's *Federal Register*, a 7 percent jump over the year before, and the second-highest count since 1984.
- Agencies have issued over 21,000 final rules over the past five years.
- 4,560 regulations are now in the works throughout the 50-plus federal departments, agencies and commissions.
- Seventy final "major" rules costing at least \$100 million each were issued by agencies in 1998, a 17 percent increase over the year before.
- Of the 4,560 regulations now in the works, 117 are "economically significant" rules that will cost at least \$100 million apiece annually. That means new regulations to impose at least \$11.7 billion yearly in future off-budget costs are in the pipeline.
- The top five rule-producing agencies account for 47 percent of all rules under consideration.
- Rules affecting small businesses have increased 37 percent over the past five years.
- The Environmental Protection Agency (EPA) alone expects to issue 462 of the 4,560 planned rules.
- The EPA's rules now in the pipeline will cost at least \$3.5 billion annually.
- Fewer than half of the EPA's prioritized \$100 million rules are accompanied by benefit estimates.

If maintaining a balanced budget or surplus remains a priority, then controlling regulatory costs may assume an added importance. Any new government programs will require increasing spending or imposing new rules and regulations. That being the case, the balanced budget imperative may tilt Congress toward adopting new off-budget private-sector regulations rather than new spending that would whittle the federal surplus. Congress knows with certainty the size of the surplus and may grow nervous as it dwindles, but since regulatory costs are hidden, the fallout from regulating instead may be less.

The proper way to police the regulatory state is to treat it the same way the spending state is treated: Congress must be made directly accountable, to the greatest extent possible, for the costs that agency rules inflict on the public. Even if cost-benefit analysis — the typical remedy proposed to police excess regulation — is fully realized, congressional approval of regulations and regulatory costs remains vital. Cost-benefit analysis is merely a form of agency self-policing, and it is not enough, because agencies rarely will admit benefits of a rule do not justify the costs. Congressional, not agency, approval of agencies' final rules would be the ultimate realization of accountability to the public. Maximizing congressional accountability by requiring Congress to vote on agency rules (in an expedited fashion, of course) would fulfill citizens' rights to "No regulation without representation." Disclosure is the pathway to full accountability, and there are numerous ways that even simple regulatory "report cards" could be produced by the federal government to distill the data that is available. Presentations like that those that appear in *Ten Thousand Commandments* can be done officially by the federal government as well.

# TEN THOUSAND COMMANDMENTS

## AN ANNUAL POLICYMAKER'S SNAPSHOT OF THE FEDERAL REGULATORY STATE

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### INTRODUCTION

There are three ways the federal government can fund its programs. The two direct methods are obvious: either raise taxes or borrow to pay for programs (borrowed money must be repaid with interest by future taxpayers). No matter how controversial government spending or borrowing may sometimes be, taxpayers always know rather precisely how much is paid for programs by having a look at the federal budget. For these costs, Congress is accountable.

The government's third funding option is indirect, and its costs do not appear in the federal budget. Regulations imposed on the private sector and lower-level governments allow the government to carry out its programs, but avoid using tax dollars to fund them. Avoiding taxes, of course, keeps such programs off-budget altogether. Congress thus escapes accountability and can blame agencies for costs. Because of the lack of disclosure and accountability, there remains little means or incentive for policymakers to grasp where regulatory costs stand in relation to ordinary government spending. Despite the facts that regulatory costs are unbudgeted, and detailed but straightforward disclosures of regulatory costs rarely exist, the federal government directs private-sector resources to a vast degree with regulatory initiatives. In that sense regulation can be thought of as off-budget taxation. To get a loose grip on the level of that "taxation," Figure 1 presents summary data for some of the topics described in this report, showing trends over the past five years, and over 10 years where data is available.

*Genuine regulatory reform must end "regulation without representation."*

**Figure 1**  
**The Regulatory State: An Overview**

	<b>Current Year</b>	<b>1 Year Change</b>	<b>5 Year Change</b>	<b>10 Year Change</b>
Total Regulatory Costs	\$737 billion	1.8%	8.1%	24.5%
Environmental/Social Regulatory Costs	\$263 billion	3.9%	21.7%	76.5%
Economic Regulatory Costs	\$233 billion	-0.8%	-2.9%	-8.3%
Agency Enforcement Budgets	\$17.5 billion	8.4%	7.9%	30.0%
Net <i>Federal Register</i> Pages	68,571	6.2%	5.6%	35.8%
<i>Federal Register</i> Pages Devoted to Final Rules	20,029	5.5%	-1.7%	21.5%
Total <i>Federal Register</i> Rule Documents	7,941	6.4%	-3.6%	0.4%
<i>Federal Register</i> Final Rule Documents	4,899	6.9%	0.7%	3.9%
Total Rules in <i>Unified Agenda</i>	4,560	3.5%	-10.9%	8.9%
“Economically Significant” Rules in the Pipeline	117	-6.4%	n/a	n/a
Rules Impacting Small Business	937	27.8%	36.6%	n/a
% of All Agency Rules that Impact Small Business	20.5%	23.0%	53.0%	n/a
Rules Impacting State Governments	729	4.4%	-7.0%	n/a
Rules Impacting Local Governments	432	-2.3%	-19.0%	n/a
Final Major Rules Issued By Agencies	70	16.7%	n/a	n/a
<u>EPA Spotlight:</u>				
Total Number of EPA Rules in <i>Unified Agenda</i>	462	7.4%	9.2%	n/a
“Economically Significant” EPA Rules in <i>Agenda</i>	38	0.0%	n/a	n/a
Final Rules issued by EPA	9	50.0%	n/a	n/a
EPA Rules Impacting Small Business	178	9.2%	44.7%	n/a

n/a: not available

The 1999 Edition of *Ten Thousand Commandments* contains four key sections:

*Regulations can be viewed as a form of off-budget taxation.*

- An overview of the costs and scope of the regulatory state, such as its size in comparison to the federal budget and its impact on the family budget.
- An analysis of trends in the numbers of regulations issued by agencies, based on the data provided by the *Federal Register* and the *Unified Agenda of Federal Regulations*.
- Recommendations for ending “Regulation Without Representation.” Steps to improve disclosure and increase congressional accountability for regulations are offered, as distinct from arguing for agency-driven cost-benefit analysis as most reform proposals tend to do.
- Historical tables providing data on regulatory trends for the past several years.

# THE REGULATORY STATE AND ITS COST TO AMERICANS

## The Social and Economic Costs of Regulation

A new report on the costs and benefits of regulation produced by the Office of Management and Budget (OMB) finds that costs of social regulations (such as environmental quality, and health and safety) range from \$170 billion to \$230 billion.<sup>2</sup> The OMB further estimates that benefits of those rules range from \$260 billion to \$3.5 trillion. As Figure 2 shows, these findings allow the OMB to report “net benefits” of federal social regulation in the range of \$30 billion to \$3.3 trillion. So at worst, the regulatory state produces \$30 billion in net benefits according to the OMB. Since only costs and benefits that were quantifiable were used in their analysis, and since the OMB correctly notes the sensitivity of all such estimates to assumptions made concerning how regulations translate to health benefits, considerable uncertainty about net benefit assessments exists.<sup>3</sup>

*Congress knows with certainty the size of the federal surplus and may grow nervous as it dwindles, but since regulatory costs are hidden, the fallout from regulating instead may be less.*

**Figure 2**  
**Estimates of the Total Annual Benefits and Costs of Social Regulations**  
(in billions of 1996 dollars as of 1998, Q1)

	<u>Benefits</u>	<u>Costs</u>
Environmental	93 - 3,300 <sup>1</sup>	120 - 170
Transportation	83 - 110	15 - 18
Labor	28 - 30	18 - 19
Other	53 - 58	17 - 22
<b>Total</b>	<b>260 - 3,500</b>	<b>170 - 230</b>

Source: OMB, *Report to Congress on the Costs and Benefits of Federal Regulations*, 1998.

<sup>1</sup> The upper end of the range is based on an EPA report.

The problem with being too accepting of “net benefit” numbers applied to the entire regulatory enterprise is that, of the thousands of regulations that up to now exist, just a handful may be responsible for the bulk of benefits, leaving the reasonableness of much of the regulatory state questionable at best. In a letter to OMB Director Jacob J. Lew, Sens. Fred Thompson (R-Tenn.) and Ted Stevens (R-Alaska) on the draft version of the OMB’s now-final report, noted that “[T]he estimates in the draft report of the total annual benefits of social regulations range from \$93 billion to \$3.3 trillion. Most of this is attributed to two major regulations on lead and particulate matter. It would be helpful to know the OMB’s estimates for the remaining regulations.”<sup>4</sup>

In another key estimate of regulatory costs covering the years 1977 to 2000 prepared for the Small Business Administration, Professor Thomas D.

*Regulations cost about \$737 billion in 1998.*

Hopkins of the Rochester Institute of Technology includes social and environmental costs as the OMB does. But Hopkins also includes costs of economic regulations, such as price and entry rules, transfers, such as farm price supports, and paperwork costs, such as tax compliance. The OMB regards the adding up of the many kinds of regulatory costs as an “apples and oranges” exercise whose “totals are more misleading than helpful.”<sup>5</sup> Nonetheless some effort to present an aggregate estimate of all costs must be made. Explicitly retaining paperwork and economic transfer costs in an aggregate cost tally (as Hopkins does but the OMB does not) is essential, for example. In regard to transfer costs, our entire tax code is an income transfer: No politician would dare to try to claim that the costs don’t exist, or can be ignored, simply because the money goes from one pocket to another. The fact that *someone* pays on the basis of government compulsion, regardless of the benefit to a third party, means that the government must openly account for it, otherwise regulation can be abused.

In Hopkins’ well-known (indeed easily the best-known) analysis, the professor calculated that the total direct costs of compliance with federal regulations would hit \$700 billion in 1998 (in 1995 dollars).<sup>6</sup>

Adjusting Hopkins’ aggregate data by the change in the consumer price index puts 1998’s total regulatory costs at \$737 billion.<sup>7</sup> Given that indirect costs — such as the impacts of lost innovation or productivity — are not included in Hopkins analysis, he notes that his figures likely somewhat understate the total regulatory burden.<sup>8</sup> On the other hand, benefits of regulations, beyond the scope of Hopkins’ analysis, might be regarded by some as offsetting costs,<sup>9</sup> as they certainly are by the OMB. Hopkins does not present a “net” cost figure, in other words.

Figure 3 shows Hopkins’ regulatory cost breakdown from 1977 to 2000, adjusted for the change in consumer price index (CPI) since his original calculations.<sup>10</sup> Note that Hopkins sorts regulations into three types: social (such as environmental and health and safety rules), economic (such as price and entry controls on business), and paperwork (largely tax compliance costs). Each type accounts for about one-third of the \$737 billion of compliance costs, and total costs have increased slightly throughout the 1990s. Note the rise in environmental and social regulation and the decrease in economic regulation. The latter reflects a deregulatory trend in business sectors, such as trucking, airlines, banking and natural gas. The next major economic sector to be deregulated is expected to be electricity.

*The total costs of regulation are up 24 percent since 1988.*

Because of differences in viewpoint between the OMB and others’ assessments of which costs to include, a relevant (but loose) comparison between Hopkins’ cost numbers and those of the OMB is probably Hopkins’ 1998 estimate of total “environmental” and “other social” costs of \$263 billion, and the OMB’s range estimate of \$170 billion to \$230 billion. Given the uncertainties admitted by both, they are probably in the same ballpark on

**Figure 3**  
**Regulatory Compliance Costs 1977-2000**  
 (Billions of 1997 \$)

YEAR	SOCIAL			ECONOMIC			PAPER WORK	TOTAL
	Environmental	Other Social	Total Social	Efficiency Loss	Transfer	Total Econ.		
1977	49	34	83	157	303	460	145	689
1978	55	37	92	150	287	437	146	675
1979	59	39	98	141	270	411	146	655
1980	63	41	104	132	252	384	151	638
1981	66	39	105	124	237	361	155	621
1982	68	37	105	119	224	343	152	600
1983	75	34	109	114	215	329	170	607
1984	80	33	113	108	204	312	172	597
1985	85	33	118	104	196	300	174	592
1986	92	33	125	100	186	286	174	584
1987	98	34	132	95	177	272	183	587
1988	103	36	139	91	166	257	182	578
1989	111	38	149	90	164	254	190	592
1990	118	41	159	87	161	248	217	624
1991	136	42	178	86	159	245	231	654
1992	144	49	193	86	158	244	238	676
1993	157	54	211	85	157	242	223	676
1994	160	56	216	84	156	240	226	682
1995	177	58	235	84	155	239	230	703
1996	183	61	244	83	153	236	233	713
1997	190	63	253	83	152	235	237	724
<b>1998</b>	<b>198</b>	<b>65</b>	<b>263</b>	<b>82</b>	<b>151</b>	<b>233</b>	<b>241</b>	<b>737</b>
1999	203	68	271	81	150	231	244	747
2000	210	72	282	81	148	229	249	759

Source: Data from 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, Table 3, p. 28. Original 1995 dollars are adjusted by the change in the CPI between 1995 and 1997.

those limited aspects of regulatory costs that both can agree merit quantitative reporting (The OMB's figures would also be slightly higher if converted to 1997 dollars; also the OMB used newer EPA data).

Glancing down the columns of Figure 3, one can readily observe a considerable decline in the level of economic regulation in recent years (reflecting such developments as transportation deregulation) and an equally dramatic increase in the social and paperwork categories. That decline in economic regulation caused overall regulatory costs to drop during much of the 1980s, to a 1988 low of \$578 billion. But paperwork filing costs and increasing environmental and social regulations (such rules as the Clean Air Act amendments and the Americans with Disabilities Act) began adding to costs in the late 1980s and the 1990s.

*The cost of social regulation has risen 76 percent over the past decade.*



## *Regulation: Stealth deficit spending?*

Despite the differing trends, the upshot is that the total costs of regulation have increased 24.5 percent, from \$592 billion to \$737 billion over the past 10 years, as can be seen from Figure 3. Although the combined costs of economic “efficiency loss” and “transfer” regulation have decreased 8.3 percent from \$254 billion to \$233 billion from 1989 to 1998, these decreases are overwhelmed by the remarkable 76.5 percent increase in “environmental” and “other social” rules between 1989 and 1998 (from \$149 billion to \$263 billion). Contributing also has been the 26.8 percent rise in paperwork costs, from \$190 billion to \$241 billion.

The opposing directions of economic vs. social regulation over the past two decades has changed significantly the very mix of the components of the regulatory state. As can be gleaned from Hopkins’ chart data, the environmental/social component of regulatory costs grew from a mere 12 percent of the total regulatory cost burden in 1977 to 35.7 percent of the total in 1998. Economic regulation used to dominate, standing at 66.8 percent of all regulatory costs in 1977. But it has now dipped to 31.6 percent. Economic regulation has lost much of its claim to legitimacy, with the realization that it tended to hurt more than help. Such a shift in perception has yet to transform attitudes toward social regulation, although such rules are subject to abuse as well.

### **Regulation vs. Government Spending**

The federal government’s budget is finally in balance, but “deficit spending” of a sort lives on in the form of regulation. Ordinary governing requires spending or borrowing. Those require taxes, and appear in the fiscal budget each year. But the federal government can impose regulations as an alternative to on-budget spending. Put simply, it can require that others do the spending. Now that the budget is finally in balance, putting to an end nearly three decades of deficit spending, the newfound surplus culture could induce lawmakers to substitute regulations for new spending, since regulation faces far fewer significant administrative constraints.

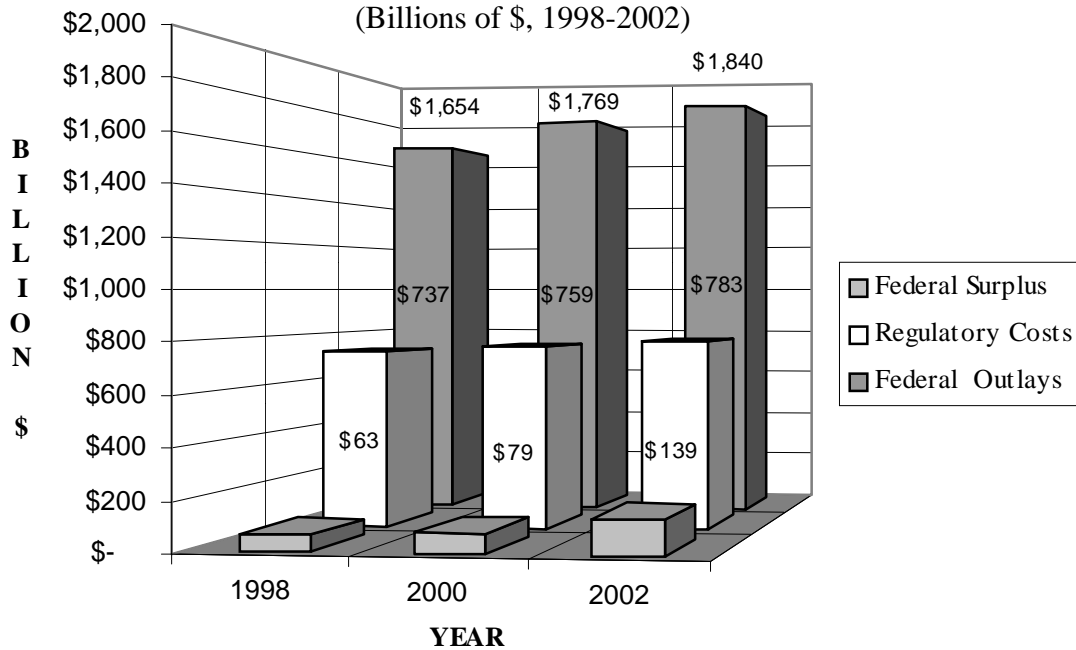
*Regulatory costs  
are equivalent to  
44 percent of  
federal outlays.*

As shown in Figure 4, off-budget regulatory costs of \$737 billion in 1998 are equivalent to 44 percent of on-budget spending of \$1.6 trillion.<sup>11</sup> These off-budget regulatory costs are projected to remain well over 40 percent of the level of total government spending through 2002. Figure 4 also projects the surplus compared to the regulatory burden for 1998, 2000 and 2002. Since no “regulatory budget” exists that must be monitored as the fiscal one is tamed, improvements in accounting for regulatory growth ought to be seriously considered.

### **Regulatory Costs vs. Income Taxes and Corporate Profits**

Off-budget regulations, since their costs arise from government edicts, might be thought of as hidden, off-budget taxes. That being the case, one

**Figure 4**  
**Off-Budget Regulatory Costs**  
**Compared with Projected Federal Spending**  
**and Expected Surplus**  
 (Billions of \$, 1998-2002)



Sources: *The Economic and Budget Outlook: An Update*, Congressional Budget Office, August 1998, p. 41; 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. Year 2002 regulatory costs are projected based upon average increase between 1995 and 2000 in Hopkins' calculations.

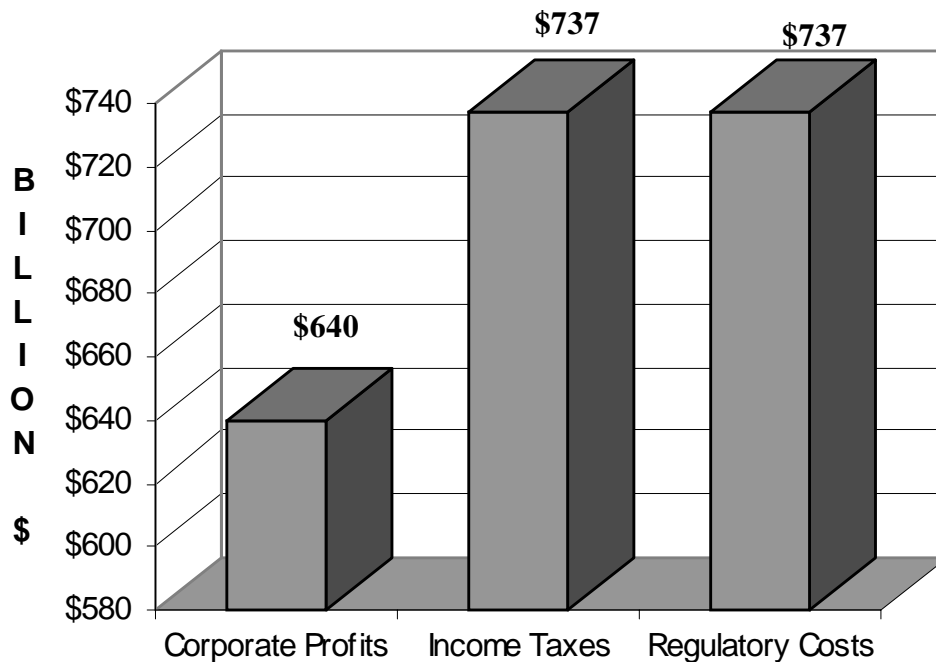
might presume them to be a secondary nuisance compared to the on-budget real thing. In fact, regulatory costs happen to equal 1996 individual income taxes, which were also \$737 billion, as shown in Figure 5.<sup>12</sup> Corporate taxes, at \$182 billion, are greatly outdistanced by regulatory costs.<sup>13</sup> Even *pretax* corporate profits, \$640 billion in 1996, are exceeded by regulatory costs, as Figure 5 also shows.<sup>14</sup>

U.S. regulatory costs of \$737 billion exceed the output of many entire national economies. As shown in Figure 6, U.S. regulatory costs exceed the entire 1995 GNP of Canada (the latest figure available), which stood at \$542 billion. The regulatory burden was also more than triple the 1995 GNP of Mexico, which totaled \$237 billion.<sup>15</sup> In fact, regulatory costs come quite close to the total *combined* output of our northern and southern neighbors.

The federal outlays of \$1,654 billion in 1998 are 19.5 percent of U.S. gross domestic product (GDP) for that year of \$8,499 billion.<sup>16</sup> Adding the federal outlays to the “hidden tax” of regulation better captures the extent of government involvement in the economy. Total regulatory costs of \$737

*Regulatory costs exceed corporate pretax profits and individual income taxes collected.*

**Figure 5**  
**Regulatory Costs Exceed 1996 Corporate Profits;**  
**Match 1997 Individual Income Taxes**



Sources (profits and taxes): *Statistical Abstract of the United States, 1998*, Table No. 539, p. 340, and Table No. 902, p. 565.

billion themselves stand at 8.7 percent of U.S. GDP. Adding these government-imposed regulatory costs of \$737 billion to government spending brings the federal government's share of the economy to 28.1 percent.

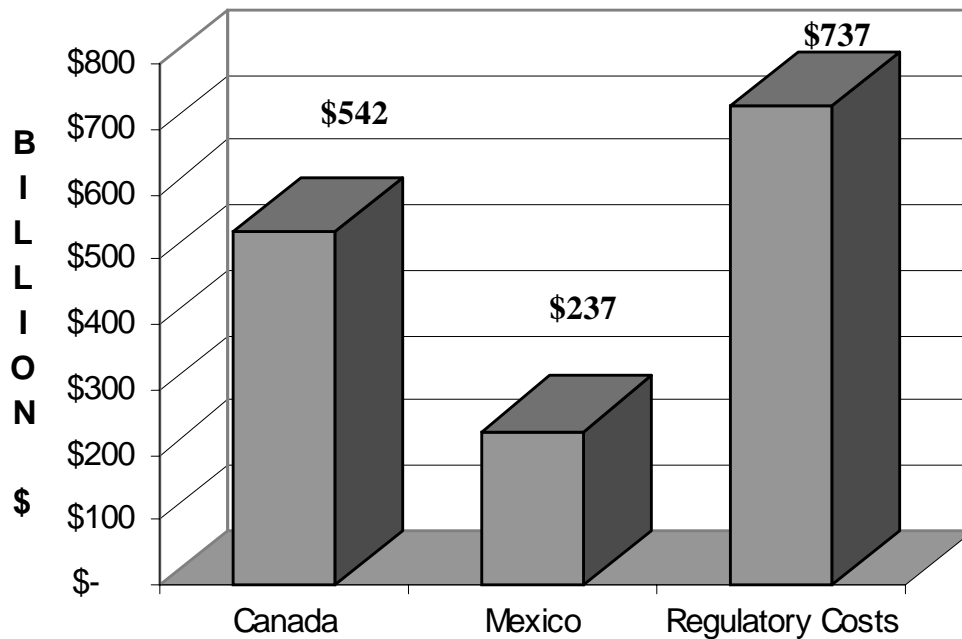
*Corporate taxes, at \$182 billion, are far out-distanced by regulatory compliance costs.*

### **The Cost of Administering the Regulatory State**

Thomas Hopkins' estimates of regulatory costs encompass compliance costs faced by the public and lower-level governments. But the costs of administering the regulatory state, that is, the *on-budget* amounts agencies spend to police regulations and ensure they are complied with, is left out of his tally. The Center for the Study of American Business (CSAB) publishes an annual study depicting the regulatory state's administrative costs. Allocated to agencies during the annual federal appropriations process, these funds represent amounts paid by taxpayers that are disclosed in the federal budget. The CSAB then examines the budget to excerpt and compile those costs of government that pertain directly to creating and enforcing regulations.

As it happens, the fiscal year 1998 costs incurred by 54 departments and agencies reached a record high of \$17.5 billion (in constant 1997 dollars).<sup>17</sup> (See Figure 7.) Of those costs, \$3.4 billion go toward administering economic regulation, but the bulk, \$14.1 billion, go toward writing and

**Figure 6**  
**Regulatory Costs Nearly Exceed Combined 1995 Economic Output of Canada and Mexico**



Sources: GNP figures from *Statistical Abstract of the United States 1998*, Table No. 1354, Gross National Product, by Country: 1985 to 1995, p. 835; 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, Table 3, p. 28.

policing social and environmental regulation. Total spending on social and economic enforcement has grown 8 percent since last year, and 30 percent from the \$13 billion in 1989 costs.<sup>18</sup>

Adding 1998's administrative costs to Hopkins' \$737 billion estimate for compliance costs brings the total 1998 regulatory burden to \$754 billion. For the current 1999 fiscal year, The CSAB expects total regulatory enforcement costs to increase to \$17.9 billion, a slight increase over the 1998 budget.<sup>19</sup>

Federal agency staffing employed to write and enforce regulations will reach 127,927 in fiscal year 1999, according to CSAB. Staffing in 1990 stood at 111,279, so the 1990s have seen a 15 percent increase.<sup>20</sup> Like the overall regulatory compliance costs discussed earlier, agency enforcement spending and staffing declined during the early 1980s but began rising late in the 1980s.

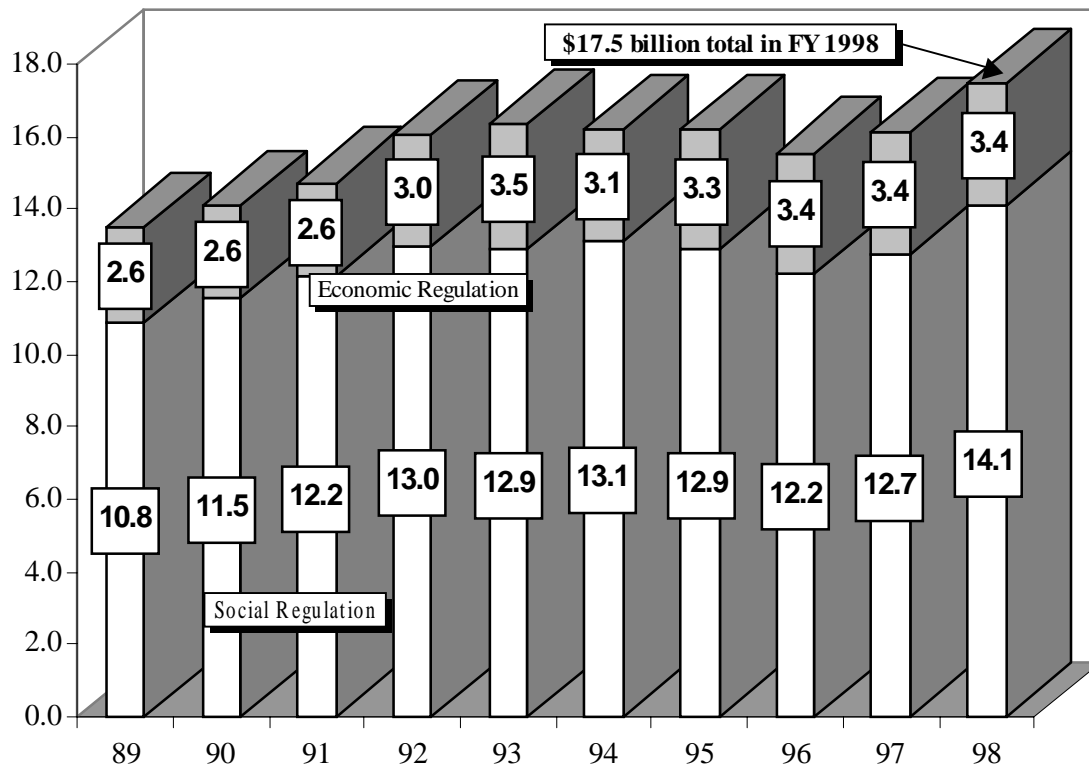
### **Regulatory Costs Eat Into the Family Budget**

While regulations are generally imposed on businesses, these firms pass on some of those costs to consumers just as they do taxes. These extra costs

*U.S. regulatory costs nearly as large as the combined GNPs of Canada and Mexico.*

*Agency enforcement budgets and staffing at record levels.*

**Figure 7**  
**Agency Enforcement Budgets Rising**  
**(1989-98, billions of constant 1997 \$)**



Source: Melinda Warren and William F. Lauber, *Regulatory Changes and Trends: An Analysis of the 1999 Federal Budget* by Center for the Study of American Business, Regulatory Budget Report 21, November 1998. 1992 constant dollars are adjusted by the change in the CPI between 1992 and 1997, from the *Statistical Abstract of the United States 1998*, Table No. 772, p. 489.

can materialize as higher prices for consumer products and grocery bills, utility bills, health and housing costs, and even higher state and local taxes. Like ordinary taxes, the hidden tax of regulation impacts the consumer pocketbook.

*Costs to police the regulatory state bring the total burden to \$754 billion.*

For the average two-earner family, estimated 1997 after-tax income (the latest year available) was \$36,423, according to the Tax Foundation.<sup>21</sup> Economic, social and environmental regulatory costs totaled an estimated \$724 billion for that year. (Refer back to the Hopkins chart, Figure 3.) These regulatory costs broke out to \$7,239 for the typical family of four in 1997.<sup>22</sup>

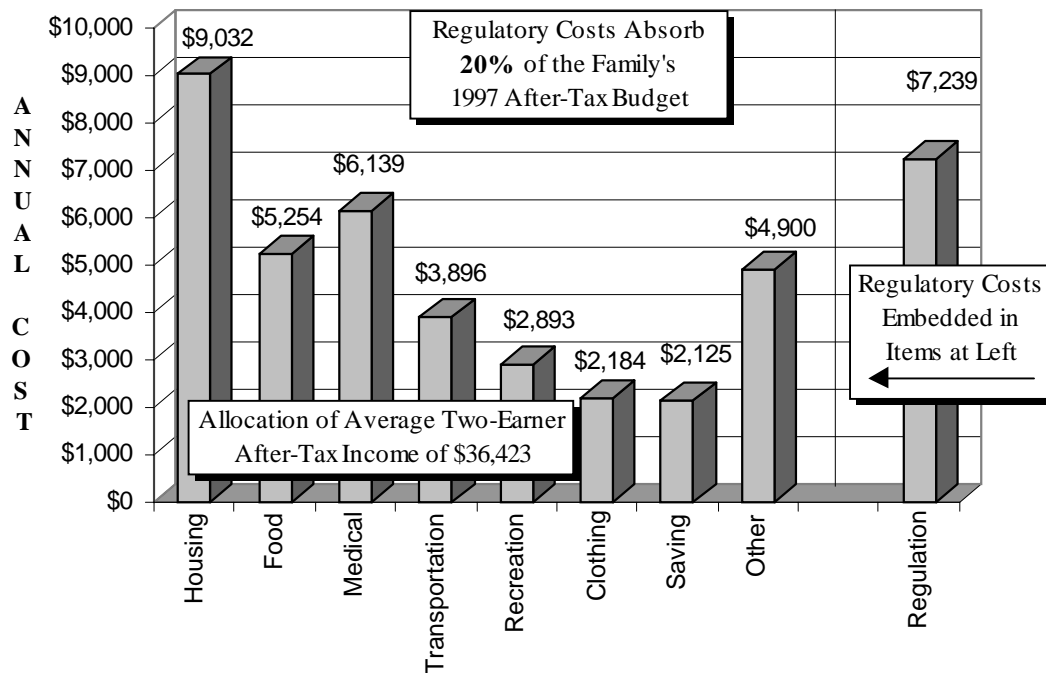
The Tax Foundation allocates the family's after-tax income across household goods and services purchases as shown in Figure 8. Conceptually speaking, 1997's regulatory costs of \$7,239, since they are hidden, might be thought of as being buried within the costs of these various items in the family's after-tax budget. Thus, as Figure 8 shows, embedded regulatory costs absorb 19.9 percent of the typical household's after-tax income, thereby making family expenses higher than they otherwise would be.

Except for housing costs, embedded regulatory costs now exceed spending for every item in the family after-tax budget. More is spent on regulation than on medical expenses, food, transportation, recreation, clothing and savings. Adding the \$7,239 in regulatory costs to the family's tax burden means implies that a significant portion of family resources are devoted to governmental ends.

*20 percent of the family's after-tax budget is consumed by regulatory costs.*

According to Americans for Tax Reform (ATR), Americans worked until June 25, 1998 — 176 days — to pay the full costs of government. The ATR calls this symbolic day of independence “Cost of Government Day.” ATR defines it as “the date of the calendar year, counting from January 1,

**Figure 8**  
**After-Tax Budget for the Two-Earner Family**  
**Contains \$7,239 in Embedded Regulatory Costs**



Sources: Tax Foundation, Dr. Thomas D. Hopkins, CEI arithmetic.

on which the average American has earned enough in cumulative gross income to pay for his or her share of government spending (total federal, state and local) plus the cost of regulation.”<sup>23</sup>

*Regulatory costs exceed all expenses in the family budget, save housing.*

**FEDERAL REGISTER ANALYSIS**

**Tens of Thousands of Federal Register Pages**

The daily *Federal Register* is the depository of all proposed and final federal rules and regulations. The number of pages in the *Register* is perhaps

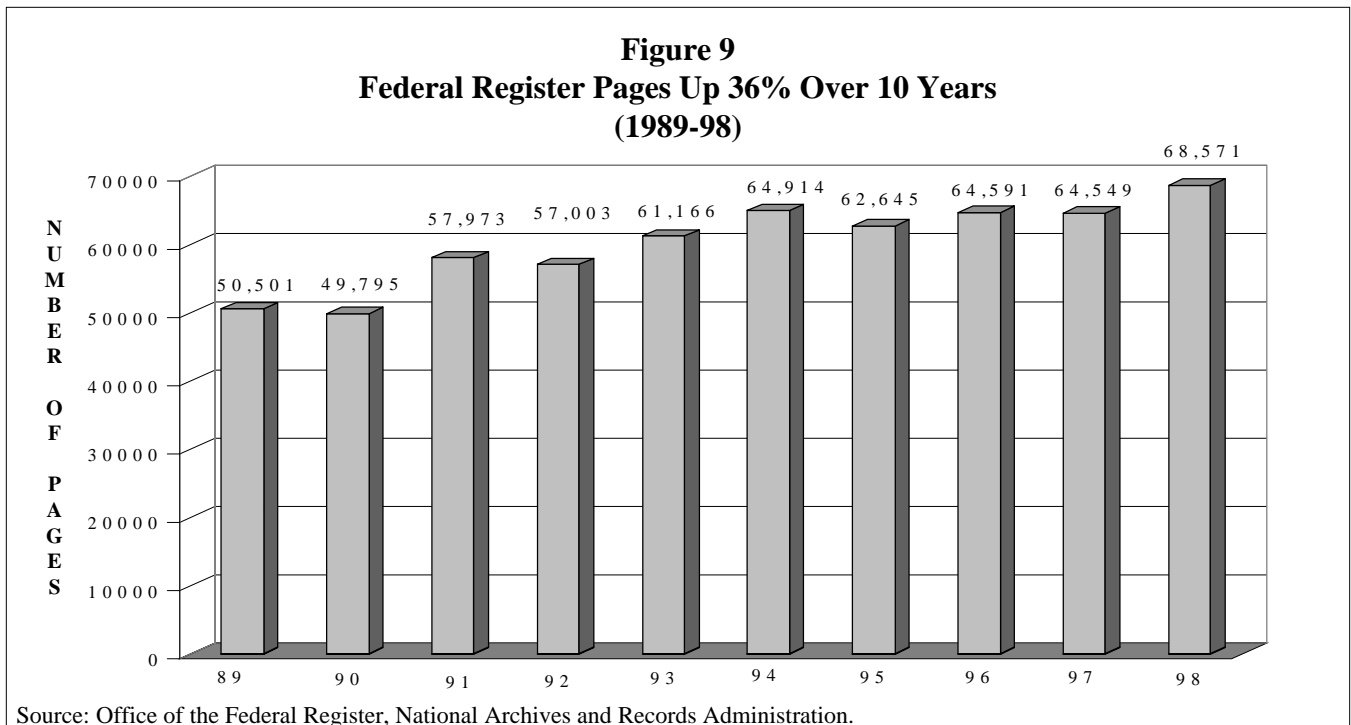
the most frequently used gauge of the growth of regulation. There are problems with using mere page numbers as a proxy for the level of regulation, of course. Lengths of rules can vary, affecting page numbers. Administrative notices, corrections, presidential statements and other material are parts of the *Register* as well. Blank pages also occasionally appear during the printing of the *Register*, a result of the Government Printing Office's imperfect prediction of agency pages required.

*Americans work more than half the year for the government to fund taxes and regulation.*

Nonetheless, it is surely worthwhile to track the *Register's* growth, provided its limitations are kept in mind.

The *Register* reached an all-time high of 73,258 pages in 1980 under President Jimmy Carter.<sup>24</sup> The *Register* then dipped to a low of 44,812 pages in 1986, partly as a result of a series of economic deregulatory efforts mentioned earlier. During the past decade, the number of *Register* pages (exclusive of blanks and skips) has bounced up and down, as shown in Figure 9. As may be seen, during 1998, the number of pages jumped 6.2 percent over the prior year, to 68,571. This new level happens to be the highest count since the Carter record. The 1998 count represents a 35.8 percent increase over 10 years ago, and a 5.6 percent increase over five years ago, when, coincidentally, that year's 64,914 *Register* pages represented the previous post-Carter record.

Regarding the *Register's* ups and downs over the past decade, note that President Bill Clinton's first year in office, 1993, brought forth a 7 percent jump in *Federal Register* pages to 61,166 from the 57,003 pages in President Bush's final year. The post-Carter peak in 1994 just mentioned followed, and was just surpassed in 1998. Notably, however, as Figure 9 shows, despite its



high general level, *Federal Register* page growth during Clinton's entire first term was less than the growth of regulation during the four years under President George Bush. Under Clinton (1993-96), *Federal Register* pages increased 6 percent overall. Under Bush (1989-92) pages had jumped 13 percent.

While the deregulatory mood in Congress may have been partly responsible for the fact that the Clinton increase was less than Bush's, rules appear to be on the rise again. After the Republican Party assumed the majority in Congress in 1994 *Federal Register* pages dipped, probably partly due to the fact that Republican reformers keep a watchful eye on *Federal Register* pages and cites them frequently as a gauge of regulation. Additionally, the partial federal government shutdown during 1995 slowed the promulgation of new regulations for a time. (For a history of *Federal Register* page totals going back to 1936, see Historical Tables, Part A: *Federal Register* Page History [1936-98].)

### ***Federal Register* Pages Devoted to Final Rules**

Although the growth in total *Federal Register* pages has ticked upward to a new record-high level, one cannot conclude from the overall count alone whether actual regulatory growth has slowed or increased, in terms of regulatory burdens actually issued. The total number of *Federal Register* pages is the most popular gauge, but isolating the pages contained within it devoted specifically to *final* rules may be a bit more informative, since pages devoted to proposed rules, agency notices, corrections and presidential documents are omitted.

Pages in the *Federal Register* devoted to final rules have experienced a bumpy ride. The number of pages devoted to final rules peaked in 1996 at 21,622 (See Figure 10). The 1998 count of 20,029 is up 5.5 percent over the previous year, and down 1.7 percent from five years ago in 1994, the year President Clinton's set his earlier record on total *Federal Register* pages (refer back to Figure 9). Overall, the total number of *Federal Register* pages devoted to final rules is up 21.5 percent over the past 10 years. Thus, even though the aggregate *Federal Register* is bigger this year in terms of number of pages, the number devoted to final rules is not at a peak. However, the overall number of pages can mask even higher levels of costs of final rules — page reduction is not the same as reducing the regulatory burden. It is unclear whether a lower number of pages devoted to final rules genuinely signifies lower levels of final rule costs.

### **Number of Proposed and Final Rule Documents in the *Federal Register***

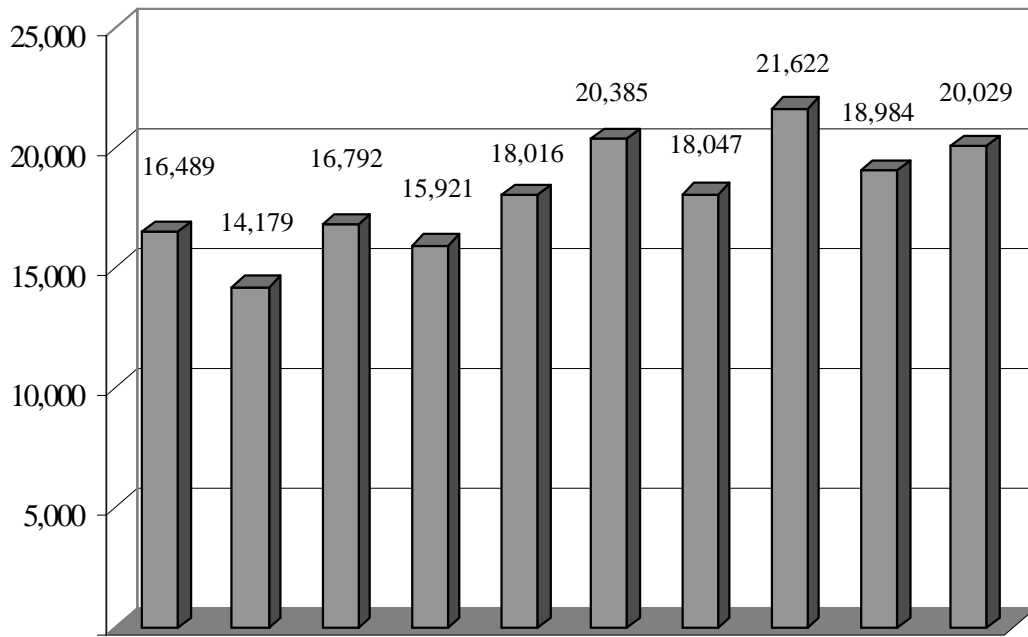
Perhaps more than *Federal Register* pages, the numbers of proposed and final rules deserve the attention of policymakers. As shown in Figure 11, the

*Federal Register* pages, despite stabilizing recently, occupy heights not seen since the Carter administration.

*The 1998 Federal Register contained 68,571 pages, the highest level since 1980 and a 6 percent jump over the previous year.*



**Figure 10**  
**Federal Register Pages Devoted to Final Rules**  
**(1989-98)**



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

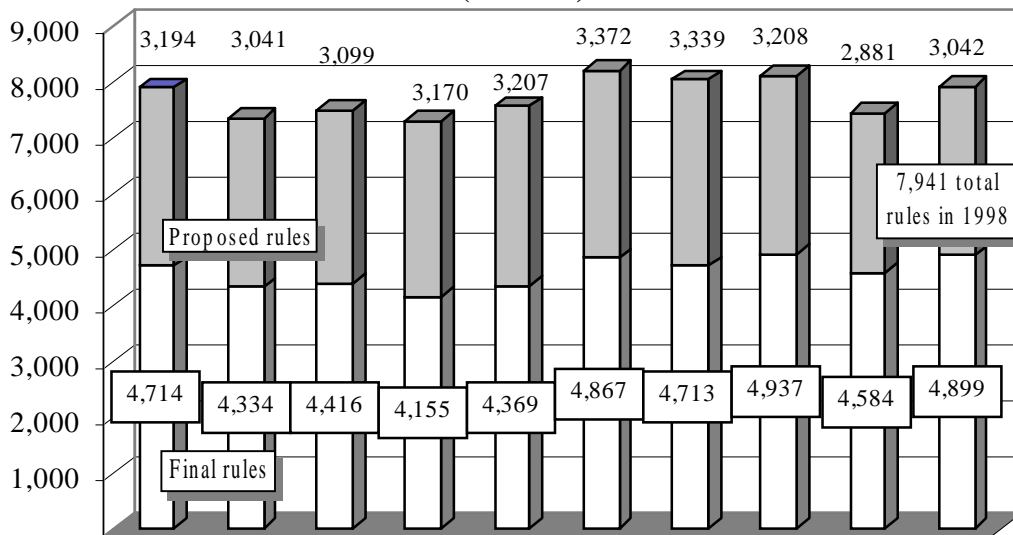
total number of rules issued at both the proposed and final levels stands well above 7,000 per year. Most recently in 1998, the total number of proposed and final rules published was 7,941, a 6 percent increase over 1997.

Isolating final rules gives some concrete idea of how active agencies have been during the year in terms of regulatory output. The number of final rules issued — 4,899 in 1998 — has exceeded 4,500 in each of the past five years, as can be seen in the lower portion of Figure 11. The 1998 count was a 6.9 percent jump over the year before. This current count represents a very slight increase over five years ago and a 3.9 percent increase over 10 years ago.

*Federal Register pages devoted to final rules are up 5 percent over last year, and up 21 percent over 10 years.*

While the level of these rules has remained relatively flat over time, the final rule count for 1998 is nonetheless the second highest level since 1984. The bottom line is that *over 24,000 final rules have been issued in the past five years*. The cumulative impacts of such regulations matter as much as growth in any one particular year. Moreover it must be remembered that the costs of those rules can vary tremendously. The annual outflow of well over 4,000 final rules has led to over 45,000 new rules since 1989. (For the numbers of proposed, final and other documents issued since 1976, see Historical Tables, Part B: Number of *Federal Register* Documents Published [1976-98].)

**Figure 11**  
**Number of Rules Published**  
**in the Federal Register**  
**(1989-98)**



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

## UNIFIED AGENDA OF FEDERAL REGULATIONS ANALYSIS

### 4,560 New Rules in the Pipeline

The *Unified Agenda of Federal Regulations* is released each April and October by the federal Regulatory Information Service Center. A rough gauge of what's in the regulatory pipeline at a given time, the *Agenda* outlines recently completed rules as well as those anticipated within the upcoming 12 months by roughly 60 federal departments, agencies and commissions. The *Agenda* is broad, depicting federal regulatory actions at the pre-rule stage, proposed and final rules, actions recently completed over the past few months and some expected long-term regulations. The rules presented in the *Agenda* impact the private sector and lower-level governments and the federal government. Since the *Agenda* is something of a cross-sectional snapshot of rules moving through the pipeline, rules may carry over at the same phase from one year to another, or they may reappear at a different phase.

According to the October 1998 *Unified Agenda*, federal agencies, departments and commissions have 4,560 regulations in the pipeline under consideration from the pre-rule to the just-completed stages.<sup>25</sup> As Figure 12 shows, rules in the *Unified Agenda* peaked at 5,119 in October 1994 and declined thereafter. That falloff might be attributed to the regulatory reform agenda of the Republicans who assumed a majority in Congress after that year's elections. Nonetheless, during the past year, the *Agenda* ticked upward by 3.5 percent, from 4,407 to 4,560. This increase parallels the recent increases,

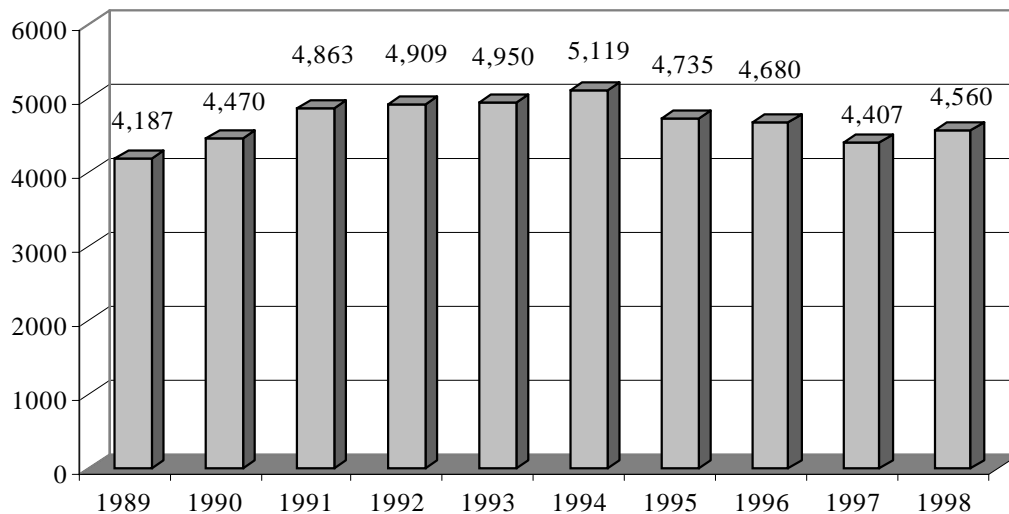
*The 4,899 final rules issued in 1998 are the second-highest count since 1984.*

*Final rules issued by the agencies jumped 7 percent last year.*

noted earlier, such as regulatory costs and agency enforcement budgets. (For a history of numbers of rules in the *Unified Agenda* since 1983, see Historical Tables, Part C: *Unified Agenda Rules History* [1983-98].<sup>26</sup>)

Figure 13 breaks down the 4,560 rules of October 1998 by department, agency and commission. As can be seen, a relative handful of agencies account for the bulk of the rules produced. The largest number of rules are

**Figure 12**  
**Total Agency Rules in the Unified Agenda Pipeline**  
**(1989-98)**



Source: Compiled by CEI from *Unified Agenda of Federal Regulations*, various years, October edition; Regulatory Information Service

produced by the agencies and departments that are excerpted in Figure 14. These “Top Five” departments and agencies, with 2,152 rules among them, account for 47 percent of all rules in the new *Agenda* pipeline. (For numbers of rules by department and agency from earlier *Unified Agendas*, see Historical Tables, Part D: *Unified Agenda Rules History by Department and Agency* [1996-98 and October 1993].)

*Over 24,000 final rules have been issued during the past five years.*

The following are examples of rules in the works in the October 1998 *Agenda* regarded by agencies as priorities.

***Department of Health and Human Services:***

- Fruit and Vegetable Juices: Development of Hazard Analysis Critical Control Points and Label Warning Statements for Juices

***Department of Labor:***

- Prevention of Work-Related Musculoskeletal Disorders
- Safety and Health Programs (For General Industry and the Maritime Industries)

**Figure 13**  
**Unified Agenda Entries by Department and Agency**  
**(October 1998)**

	<u>Total Rules</u>		<u>Total Rules</u>
Dept. of Agriculture	384	Office of Management & Budget	11
Dept. of Commerce	344	Office of Personnel Management	101
Dept. of Defense	142	Panama Canal Commission	5
Dept. of Education	20	Peace Corps	5
Dept. of Energy	63	Pension Benefit Guaranty Corporation	12
Dept. of Health & Human Services	351	Railroad Retirement Board	17
Dept. of Housing & Urban Development	102	Selective Service System	1
Dept. of the Interior	337	Small Business Administration	25
Dept. of Justice	186	Social Security Administration	70
Dept. of Labor	149	U.S. Information Agency	1
Dept. of State	22	Federal Acquisition Regulation	42
Dept. of Transportation	518	Commodity Futures Trading Commission	12
Dept. of Treasury	438	Consumer Product Safety Commission	15
Dept. of Veterans' Affairs	118	Farm Credit Administration	15
Advisory Council on Historic Preservation	1	Farm Credit System Insurance Corporation	3
Agency for International Development	7	Federal Communications Commission	121
Architectural and Transportation Barriers Compliance Board	9	Federal Energy Regulatory Commission	12
Commission on Civil Rights	1	Federal Housing Finance Board	17
Corporation for National & Community Service	6	Federal Maritime Commission	6
Environmental Protection Agency	462	Federal Reserve System	30
Federal Emergency Management Agency	25	Federal Trade Commission	16
General Services Administration	49	National Credit Union Administration	14
National Aeronautics & Space Administration	11	Federal Deposit Insurance Corporation	26
National Archives & Records Administration	19	National Indian Gaming Commission	17
Institute of Museum Services	1	Nuclear Regulatory Commission	63
National Endowment for the Arts	5	OSC	1
Equal Employment Opportunity Commission	10	Overseas Private Investment Corporation	2
National Endowment for the Humanities	6	Tennessee Valley Authority	1
National Science Foundation	5	Securities and Exchange Commission	83
Office of Federal Housing Enterprise Oversight	4	Surface Transportation Board	8
Office of Government Ethics	12	Federal Mediation and Conciliation Service	1
		<b>TOTAL</b>	<b>4,560</b>

Source: Compiled by the CEI from the Unified Agenda of Federal Regulations, Regulatory Information Service Center, October 1998.

**Figure 14**  
**The Top Five Rule-Producing Agencies**

(1) Department of Transportation	518
(2) Environmental Protection Agency	462
(3) Department of the Treasury	438
(4) Department of Agriculture	384
(5) Department of Health and Human Services	<u>350</u>
<b>Top-Five Total</b>	<b>2,152</b>

Source: Compiled by CEI from the *Unified Agenda*, October 1998

*Agencies and departments are at work on 4,560 rules.*

***Department of Energy:***

- Energy Efficiency Standards Rulemakings and Determinations for High Priority Consumer Products and Commercial Equipment
- Energy Efficiency Standards for Lamp Ballasts

***Department of Transportation:***

- Hours of Service of Truck Drivers
- Advanced Air Bags

***Environmental Protection Agency:***

- Toxic Chemicals Release Reporting; Community Right-to-Know
- National Primary Drinking Water Regulations: Radon

***Consumer Product Safety Commission:***

- Flammability Standard for Upholstered Furniture

**High-Cost, Off-Budget Rules in the Agenda Will Cost Billions of Dollars**

A subset of the *Agenda's* 4,560 rules are known as “economically significant” rules. This subset consists of those defined as having (or that will have) economic impacts of *at least* \$100 million each year. These impacts typically represent regulatory compliance costs (although occasionally a major rule is intended to reduce costs). As Figure 15 shows, 117 new high-cost rules at the pre-rule, proposed, final, long-term of recently completed stages are under consideration by 15 departments and agencies. These high-cost rules are scattered among the 4,560 rules in the *Agenda*. Since each will cost at least \$100 million annually, these regulations can be expected to impose, *at minimum*, total annual costs of \$11.7 billion (117 rules times \$100 million equals \$11.7 billion).

These new off-budget regulatory costs of \$11.7 billion are usually not presented directly for each rule in the 4,560-rule *Agenda*, which typically indicates only that a rule is, in fact, “economically significant.” Rather than accumulate and summarize dollar costs of regulations for the benefit of the reader, each *Agenda* entry separately indicates whether or not a rule is “economically significant” and provides additional cost data from Regulatory Impact Analyses if it is available. The costs represent a floor and are arrived at by combing through the document. (A list of the 117 “economically significant” rules and their issuing agencies has been compiled from the October 1998 edition of *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, and is presented in the Appendix.)

*The overall number of regulations jumped 3.5 percent in 1998.*

Figure 16 compares the total number of economically significant rules from the October *Unified Agendas* with the past three years. The 117 major rules in October 1998 represent a 6.4 percent decrease from the prior year's

**Figure 15**  
**117 New Rules are Expected to Cost Over \$100 Million Annually**  
**(October 1998)**

	<u>Prerule</u>	<u>Proposed</u>	<u>Final</u>	<u>Long-term</u>	<u>Completed</u>	<u>TOTAL</u>
Dept. of Agriculture	0	7	7	1	2	17
Dept. of Energy	2	2	0	5	0	9
Dept. of Health & Human Services	0	2	1	6	0	9
Dept. of Housing & Urban Developmen	0	0	2	0	0	2
Dept. of the Interior	0	0	0	1	1	2
Dept. of Labor	1	8	3	3	0	15
Dept. of Transportation	0	4	1	0	1	6
ATBCB	0	0	1	0	0	1
Environmental Protection Agency	0	14	13	9	2	38
Small Business Administration	0	5	1	0	1	7
Social Security Administration	0	0	0	0	1	1
Federal Acquisition Regulation	0	0	0	1	0	1
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	0	7	0	7
Nuclear Regulatory Commission	0	0	0	0	1	1
<b>TOTAL</b>	<b>3</b>	<b>43</b>	<b>29</b>	<b>33</b>	<b>9</b>	<b>117</b>

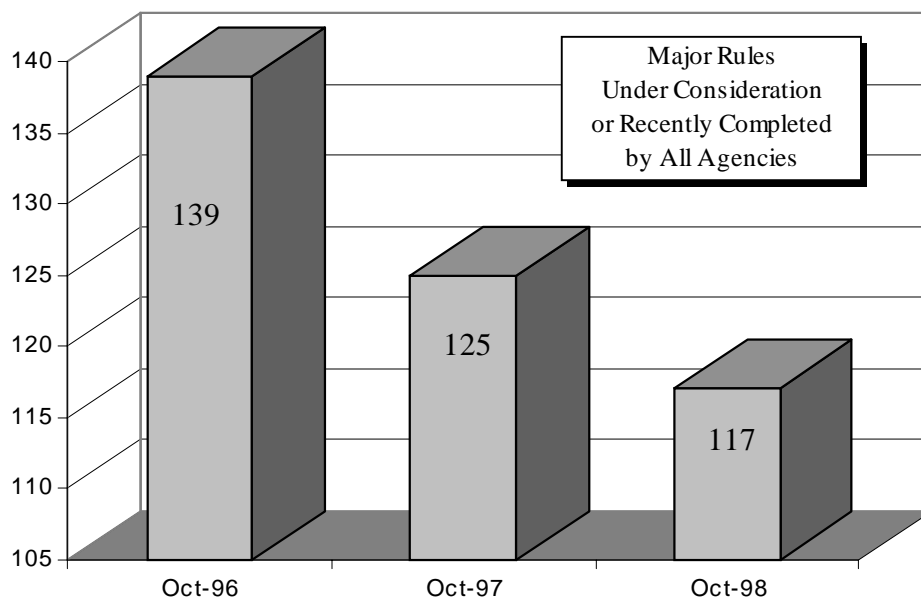
Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, October 1998.

125, and a 15.8 percent drop from 1996. (For charts breaking down economically significant rules by stage and by agency for recent years, see Historical Tables, Part E: Agency Major Rules by Category [1996-98].)

This decline in the number of economically significant rules over the past three years is quite significant. It clearly runs counter to the earlier-presented evidence such as increasing activity in terms of total regulatory costs, total number of rules, enforcement costs, and — as will be seen — the number of rulings affecting small business and increased levels of environmental regulation. Nonetheless, the decline in total rules in the *Unified Agenda* may obscure increased activity in terms of the imposition of costly burdens on the public. It must be remembered that an economically significant rule can cost \$100 million — or many times that amount: The sky is the limit as far as any upper bound on costs, and no enhanced reporting requirements kick in for especially costly rules whose compliance burden will greatly exceed \$100 million. Fewer rules do not necessarily mean lower costs, since the bulk of costs can be concentrated in relatively few rules (much as benefits can be concentrated in relatively few rules). For example, some studies of the EPA’s ozone-particulate matter rule suggest that by the year 2010, the annual cost of the ozone-abatement requirements will exceed \$1.1 billion, while the particulate matter abatement costs will exceed \$8.6 billion annually.<sup>27</sup> These are truly “economically significant.” Furthermore, even though the \$11.7 billion in anticipated costs represents a lower boundary for 1998’s rules, it is not simply a one-time cost, but a recurring annual cost that must be added to last year’s costs and to all the costs to come.

*The five biggest rule-producing agencies accounted for 47 percent of all rules in the Unified Agenda.*

**Figure 16**  
**"Economically Significant" Rules in the Unified Agenda Pipeline**  
**(1996-98)**



Source: Compiled by the CEI from *Unified Agenda of Federal Regulations*, various years; Regulatory Information Service Center.

*Regulators anticipate new rules that will cost at least \$11.7 billion annually.*

The recent decline in the total number of costly rules presented in the *Unified Agenda* may be a result of the additional attention placed on regulation since the Republican assumption of the majority in Congress. Their kickoff “Contract With America” reform agenda began what has remained a long-term effort to complete some form of comprehensive regulatory reform driven by both Republicans and Democrats. Their efforts have also included more targeted proposals, such as bipartisan bills that would enhance regulatory accounting requirements. Such pressures might explain agency reluctance to broadcast as many upcoming rules as in prior years, resulting in a decline in anticipated “economically significant” rules. Indeed, agencies are not required to limit their activity to what they publish in the *Unified Agenda*: “The *Regulatory Plan* and the *Unified Agenda* do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications.”<sup>28</sup> The decline in “economically significant” rules reported may be real. On the other hand it may be a temporary artifact of personality and politics, not the harbinger of a genuine shift in public policy regarding off-budget regulation.

Finally, a focus on economically significant rules mustn’t lull analysts into ignoring the bulk of the rules considered each year. Although 4,443 federal rules do not qualify as economically significant in 1998 (4,560 total rules minus the 117 economically significant ones), that doesn’t mean they

aren't costly. Any of these rules may cost up to \$99 million and still avoid the "economically significant" label. Thus, a problem with employing a \$100 million threshold to designate a regulation as significant is that the vast majority of regulations escape altogether the extra cost scrutiny brought to bear on economically significant rules. That can create an incentive for agencies to break rulemakings into chunks small enough to duck below the \$100 million threshold. Thus, the public can end up facing many small rules instead of one large one. Besides, even costs well below \$100 million add up quickly given the thousands of rules considered each year. The lack of any cost analysis at all applied to most rules renders any claim that regulation on the whole produces net benefits quite questionable.

### **PLANNED FEDERAL REGULATIONS EXPECTED TO IMPACT SMALL BUSINESS**

The Regulatory Flexibility Act directs agencies to assess the impacts of their rules on small businesses. As specified in the *Unified Agenda*, "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."<sup>29</sup> Accordingly, each year's *Unified Agenda* contains an index listing rules expected to have impacts on small entities (rules that impact lower-level governments are included in the indices as well). While the total number of rules from each agency that have an impact on small business are not directly given in the *Agenda*, they can be tabulated by counting the individual entries.

Figure 17 shows that 937 rules will have significant economic impact on a number of small businesses, according to the *Unified Agenda*, up a remarkable 27.8 percent from 1997's 733 rules. Even taking into account the dip in rulemaking between 1996 and 1997, these 937 rules impacting small concerns are a 36.6 percent jump over the 686 rules of October 1994.

Figure 18 breaks out by department, agency and commission the 937 rules in the October 1998 *Agenda* impacting small business. As the breakdowns show, 497 of the rules by law required a Regulatory Flexibility Analysis to assess small business impacts. Another 440 were deemed by agencies not to require an analysis but nonetheless likely to have some effect on small business.

As Figure 18 also shows, of the total 4,560 rules, a total of 20.5 percent of them impact small business. The chart breaks out small business rules as a percentage of the total number of rules issued by each agency. The Department of Transportation and the Environmental Protection Agency, accounting for 208 and 178, respectively, of the 937 small business rules, far outstrip other agencies in small business impacts. The runners-up are the Department of Health and Human Services with 88 rules affecting small

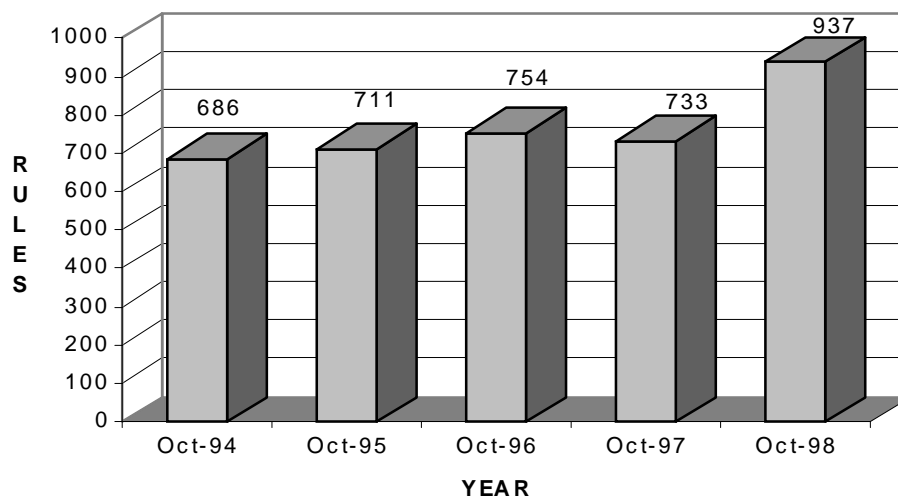
*The decline in "economically significant" rules may signal a real shift in attitudes toward off-budget regulation — or it may merely be a temporary artifact of personality and politics.*

*"The Regulatory Plan and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules within them or to confine their regulatory activities to those regulations that appear in these publications."*



business, the Federal Communications Commission with 82, and the Department of Agriculture with 63. All told, these five agencies alone account for

**Figure 17**  
**Over 930 Rules Impact Small Business**  
**(1994-98)**



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

619, or 66 percent, of the total number of rules that will affect small businesses. (For the numbers of rules impacting small business broken down by department and agency for April and October *Agendas* since 1993, See Historical Tables, Part F: Rules Impacting Small Business [1993-98].)

The Regulatory Flexibility Act (RFA) amendments passed in 1996 ensured small firms the right to sue agencies that failed to perform a Regulatory Flexibility Analysis assessing the impacts of new rules on small firms.<sup>30</sup> Nonetheless, as Figure 17 shows, the overall trend remains an increase in the number of rules affecting small businesses, even while the total number of rules in the pipeline has dropped until just last year, and while the number of economically significant rules has fallen over the past three years. Overall, the ratio of rules affecting small business to total rules since the passage of the RFA amendments has increased, not decreased. As noted, the 937 small-business rules in 1997 comprise 20.5 percent of the 4,560 total. This is an increase of 23 percent from the 16.6 percent of all rules that contained provisions impacting small business in 1997. Furthermore, the rise has characterized the past five years. The October 1994 *Agenda* contained a total of 5,119 rules.<sup>31</sup> Only 686, or 13.4 percent of them, were reported by agencies to affect small business. Thus the percentage of agency rules impacting small business has risen 53 percent over five years.

*Any of over 4000 rules could cost up to \$100 million but escape cost disclosure altogether.*

**Figure 18**  
**Unified Agenda Entries Impacting Small Business by Department and Agency**  
**(October 1998)**

	Number Impacting Small Business			Total	% Impacting Small Business
	Total Rules	RFA* Required	RFA* Not Required		
Dept. of Agriculture	384	46	17	63	16.4%
Dept. of Commerce	344	47	5	52	15.1%
Dept. of Defense	142	2	19	21	14.8%
Dept. of Education	20	0	0	0	0.0%
Dept. of Energy	63	0	0	0	0.0%
Dept. of Health & Human Services	351	52	36	88	25.1%
Dept. of Housing & Urban Development	102	1	0	1	1.0%
Dept. of the Interior	337	28	1	29	8.6%
Dept. of Justice	186	9	1	10	5.4%
Dept. of Labor	149	41	0	41	27.5%
Dept. of State	22	0	0	0	0.0%
Dept. of Transportation	518	30	178	208	40.2%
Dept. of Treasury	438	59	1	60	13.7%
Dept. of Veterans' Affairs	118	6	0	6	5.1%
Advisory Council on Historic Preservation	1	0	0	0	0.0%
Agency for International Development	7	0	0	0	0.0%
ATBCB	9	3	0	3	33.3%
Commission on Civil Rights	1	0	0	0	0.0%
Corporation for National & Community Service	6	0	0	0	0.0%
Environmental Protection Agency	462	23	155	178	38.5%
Federal Emergency Management Agency	25	0	0	0	0.0%
General Services Administration	49	2	0	2	4.1%
National Aeronautics & Space Administration	11	1	0	1	9.1%
National Archives & Records Administration	19	1	0	1	5.3%
Institute of Museum Services	1	0	0	0	0.0%
National Endowment for the Arts	5	0	0	0	0.0%
Equal Employment Opportunity Commission	10	2	0	2	20.0%
National Endowment for the Humanities	6	0	0	0	0.0%
National Science Foundation	5	0	0	0	0.0%
Office of Federal Housing Enterprise Oversight	4	0	0	0	0.0%
Office of Government Ethics	12	0	0	0	0.0%
Office of Management & Budget	11	1	0	1	9.1%
Office of Personnel Management	101	0	0	0	0.0%
Panama Canal Commission	5	0	0	0	0.0%
Peace Corps	5	0	0	0	0.0%
Pension Benefit Guaranty Corporation	12	0	0	0	0.0%
Railroad Retirement Board	17	0	0	0	0.0%
Selective Service System	1	0	0	0	0.0%
Small Business Administration	25	20	0	20	80.0%
Social Security Administration	70	0	0	0	0.0%
U.S. Information Agency	1	0	0	0	0.0%
Federal Acquisition Regulation	42	9	2	11	26.2%
Commodity Futures Trading Commission	12	1	0	1	8.3%
Consumer Product Safety Commission	15	0	0	0	0.0%
Farm Credit Administration	15	0	0	0	0.0%
Farm Credit System Insurance Corporation	3	0	0	0	0.0%
Federal Communications Commission	121	80	2	82	67.8%
Federal Energy Regulatory Commission	12	0	0	0	0.0%
Federal Housing Finance Board	17	0	1	1	5.9%
Federal Maritime Commission	6	0	5	5	83.3%
Federal Reserve System	30	2	3	5	16.7%
Federal Trade Commission	16	1	9	10	62.5%
National Credit Union Administration	14	0	0	0	0.0%
Federal Deposit Insurance Corporation	26	0	0	0	0.0%
National Indian Gaming Commission	17	0	0	0	0.0%
Nuclear Regulatory Commission	63	8	0	8	12.7%
OSC	1	0	0	0	0.0%
Overseas Private Investment Corporation	2	0	0	0	0.0%
Tennessee Valley Authority	1	0	0	0	0.0%
Securities and Exchange Commission	83	22	5	27	32.5%
Surface Transportation Board	8	0	0	0	0.0%
Federal Mediation and Conciliation Service	1	0	0	0	0.0%
<b>TOTAL</b>	<b>4,560</b>	<b>497</b>	<b>440</b>	<b>937</b>	<b>20.5%</b>

Source: Compiled by the CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, October 1998.  
 \*Regulatory Flexibility Analysis

## FEDERAL REGULATIONS IMPACTING STATE AND LOCAL GOVERNMENTS

*937 regulations are expected to have significant economic impacts on small businesses.*

*Ten Thousand Commandments* primarily tracks regulations imposed on private-sector businesses and the family. However, one of the key developments that spurred interest in regulatory reform during the 1990s was the complaints of state and local officials that their own priorities were being shoved aside due to the necessity to comply with mandates handed down to them by the federal government. (Such mandates included landfill standards, wastewater treatment standards, drinking water requirements, stormwater regulations and the Americans with Disabilities Act.) Passage of the Unfunded Mandates Reform Act of 1995, which provided for a point of order to lie against any bill that would impose mandates on lower level governments without authorizing (not necessarily appropriating, however) funding to cover the costs, also required that the Congressional Budget Office provide cost estimates of mandates.

How much relief have state and local jurisdictions enjoyed since the Mandates Act was passed? The answer may forecast what may be expected of “Unfunded Mandates”-style legislation applied to private-sector mandates, which has been proposed in one incarnation in the form of legislation entitled the Mandates Information Act of 1999. Apart from the Unfunded Mandates Act, two executive orders also require assessments of the rulemaking activity affecting lower-level governments, and efforts to reduce the imposition of such mandates.<sup>32</sup>

Those rules flagged by the two executive orders and that agencies expect will have an effect on lower levels of government appear in the *Unified Agenda*. Tallying the number of rules impacting lower-level governments today, and comparing that with the rules issued five years ago — before the implementation of the Unfunded Mandates Act — can give one indication of what impact the act has had on reducing mandates.

*Five departments and agencies alone account for two-thirds of the rules that impact small business.*

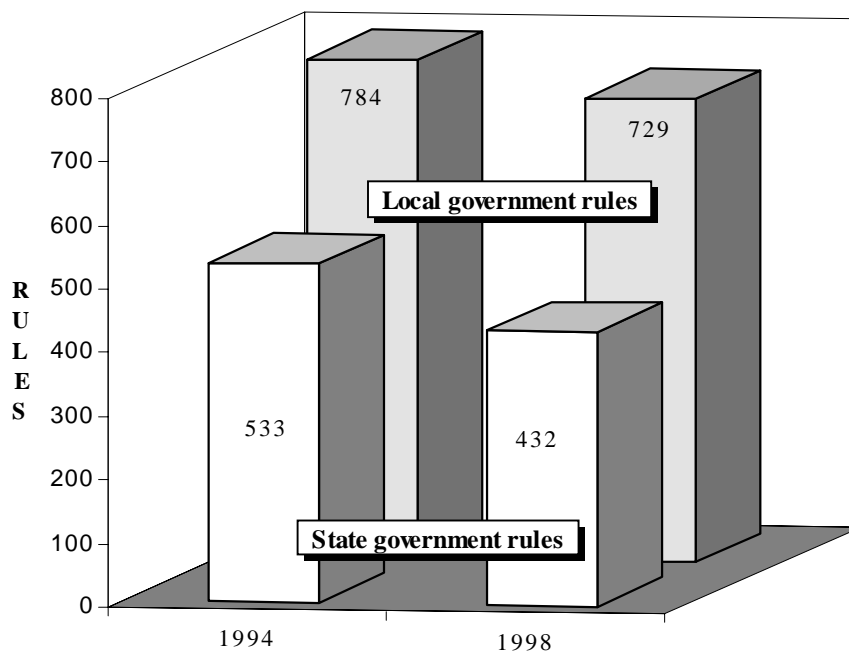
As Figure 19 shows, of the 4,560 rules in the October 1998 *Unified Agenda*, 432 impact local governments. (These represent the total number of rules having notable impact on lower-level governments: a smaller subset of these will exceed the \$50 million threshold that triggers a point of order under the unfunded mandates law.) The 432 rules impacting local governments is a decline of 19 percent from the 533 rules impacting local governments in 1994. Likewise, Figure 19 also shows that the number of total regulatory actions impacting state governments dropped 7 percent, from 784 to 729. (Note that many rules impact governments at both levels.)

The decline in rules that has occurred for local and state governments alike over the past five years is noteworthy since the Unfunded Mandates Act’s passage fell in the interim. The 1994 count represents a pre-Unfunded-Mandates Act tally. It is beyond the scope of this paper to determine whether

the decline can be directly attributed to the Unfunded Mandates Act, but the development is surely a welcome one for state and local officials. Nonetheless, despite the five-year decline, there has been a slight uptick in rules impacting state governments over the past year. From 1997 to 1998, this segment saw a 4.4 percent increase from 698 to 729. (For these figures and for a broader comparison of the numbers of rules impacting state and local governments by department and agency over the past several years' October Agendas, see Historical Tables, Part G: Federal Rules Impacting Lower-Level Governments [1993-98].)

*The proportion of total agency rules impacting small business is increasing.*

**Figure 19**  
**Rules Impacting State and Local Governments Have Declined**  
**(1994 and 1998)**



Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1994 and 1998.

It is unclear whether a Mandates-style bill alone would be enough to provide substantial relief for the private sector, but such legislation would be a welcome part of the mix because it would increase congressional accountability for private sector-regulation. The CBO reports in its new study of the Unfunded Mandates bill that, in 1998, three times as many private-sector mandates were analyzed that exceeded the \$100 million threshold (for which no point of order yet applies) as intergovernmental mandates that exceeded the \$50 million threshold.<sup>33</sup> As Figure 20 shows, of the several hundred statements the CBO prepares to accompany legislation, there were six intergovernmental mandates in 1998, and 18 impacting the private sector.<sup>34</sup>

*The number of mandates on state and local governments remains high, but has stabilized.*

## GAO DATA POINTS TO AN INCREASE IN MAJOR RULES ENACTED

The *Federal Register* can readily provide the number of proposed and final rules in the aggregate. The *Unified Agenda* can give an idea of the number of rules in the pipeline. Now, under the Congressional Review Act (CRA), passed in 1996, agencies are required to submit reports to Congress on the impacts of their “major” rules (those costing \$100 million or more). This way, of the thousands of final rules that agencies issue each year, we now have a means of seeing which among them are the exceptionally costly ones, and which agencies are producing them.

**Figure 20**  
**Number of CBO Mandate Statements for Bills,  
Proposed Amendments and Conference Reports**  
**1998**

	<u>Intergovernmental Mandates</u>	<u>Private-Sector Mandates</u>
Total Number of Statements Transmitted to Congress	541	525
Number of Statements That Identified Mandates	64	75
Mandate costs exceeded threshold	6	18
Mandate costs could not be estimated	7	9

Source: Congressional Budget Office.

*Unfunded mandates-style legislation may provide limited relief to the private sector.*

The Government Accounting Office (GAO) reports are intended to offer Congress a chance to review a rule for 60 legislative days, and, if desired, to pass a resolution of disapproval to reject the rule. Despite the issuance of thousands of rules since the CRA’s passage, none has been rejected — a problem that may be attributed to the fact that Congress benefits from the delegation of rulemaking authority. In any case, the GAO compiles detailed reports describing final major rules in its database (the database also includes information on the thousands of non-major rules, agency policy statements, guidelines, manuals and so on). The existence of the GAO’s reports now provides an additional way to keep track of regulations. We now have two full years worth of reports since the passage of the CRA, and as can be seen in Figure 21, the number of final major rules issued by agencies has increased from 60 to 70, a 17 percent jump. (Note that these 70 final rules issued in 1998 loosely correspond to the 81 economically significant rules in the October 1998 *Agenda* at the proposed, final and completed stages depicted back in Figure 15, not all of which would have been finalized by year-end.)

Taking both years into account in Figure 21, the Federal Communications Commission (FCC) has been the most active agency, partly a result of its implementing the telecommunications reform bill passed in 1996.

## REGULATION AND THE EPA

This report has taken a broad look at the extent of government regulation: also useful is a look at a single agency in isolation to get a feel for regulatory trends. As tales of regulatory excess and abuse go, the Environmental Protection Agency (EPA) gets its share of the spotlight.

**Figure 21**  
**GAO Reports on Major Rules**  
**1997-98**

	<u>1998</u>	<u>1997</u>
Environmental Protection Agency	9	6
Department of the Interior	5	4
Federal Communications Commission	17	13
Health and Human Services	18	6
Department of Energy	0	2
Securities and Exchange Commission	5	8
Department of Agriculture	4	7
Nuclear Regulatory Commission	2	1
Department of Transportation	1	2
Department of Justice	1	2
Federal Reserve	0	1
Social Security Administration	0	2
Department of Housing and Urban Dev.	0	2
Department of Labor	2	2
Department of Commerce	1	1
Pension Benefit Guaranty Corp.	1	0
Department of Treasury	2	1
Department of Defense	1	0
Small Business Administration	1	0
<b>TOTALS:</b>	<b>70</b>	<b>60</b>

Source: Compiled by CEI from GAO data.

By several measures, the EPA is on a roll. For example, the EPA spends more than any other agency to enforce regulations. The Center for the Study of American Business reports that the EPA alone, with \$5.2 billion expected to be spent to enforce regulation during fiscal year 1999, accounts for 29 percent of the \$17.9 billion (current dollars) expected to be spent by all the regulatory agencies.<sup>35</sup>

### **Total Rule Growth and Small Business Impacts at the EPA**

Of the 4,560 rules in the pipeline in 1998, 462, or 10.1 percent, spring from the EPA. Over the past year (between 1997 and 1998), the number of EPA rules rose 7.4 percent — from 430 to 462. (See Figure 22 below.)

*Seventy major rules were enacted in 1998, a 17 percent increase over the year before.*

*The EPA accounts for 10 percent of all rules under consideration by more than 50 departments and agencies.*

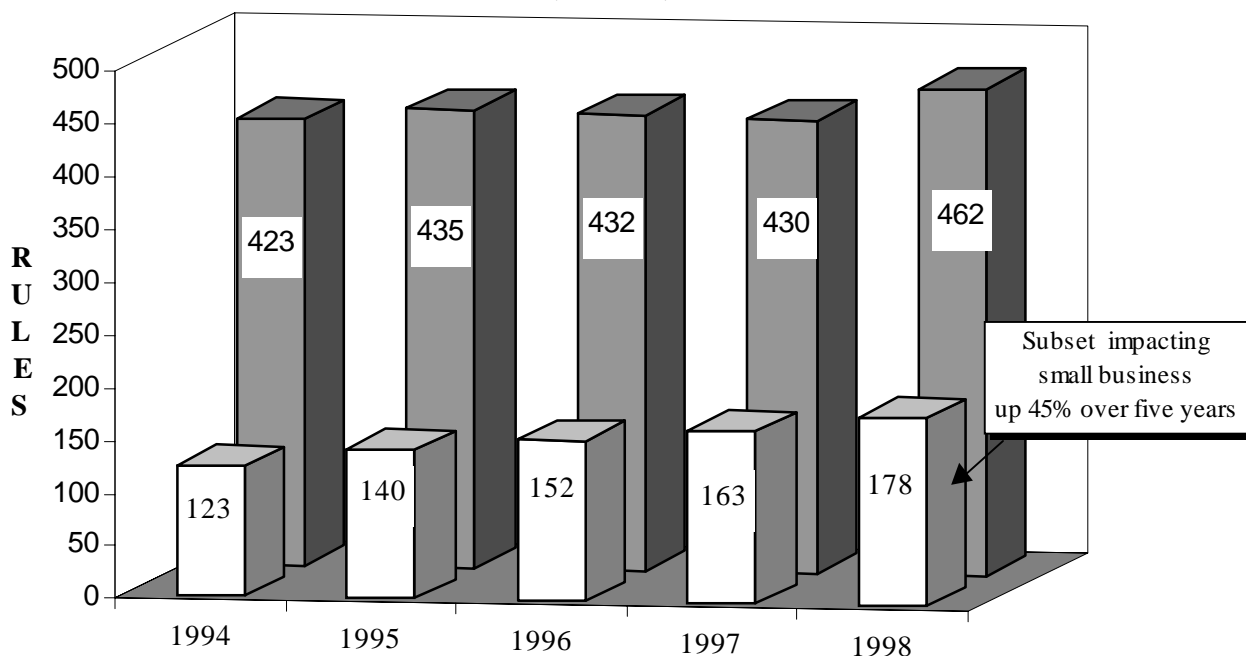
Between 1994 and 1997, the EPA's total number of entries in the *Unified Agenda* pipeline remained rather stable, such that the change between 1994 and 1998 is just 9.2 percent.<sup>36</sup> The EPA's total number of economically significant rules in the 1998 *Agenda* remained constant at 38 (refer back to Figure 15), however the portion of those rules at the proposed and final stages jumped to 27 from 1997's 20.<sup>37</sup> This rise parallels the jump in the EPA's major rules finalized from six to nine as compiled from the GAO data, as shown above in Figure 21. Overall, EPA rule growth has been rather flat, but this appears to mask increases in costly rules.

In contrast to the flatness of the level of EPA rules up until last year, the jump in major rules is quite notable. Also noteworthy is the punch the EPA delivers to small businesses. Also presented in Figure 22 is the subset of the EPA's rules that have some impact on small business, which, since 1994, have risen from 123 to 178, an increase of 44.7 percent. Rules affecting small business now account for 38.5 percent of the EPA's 462 *Agenda* entries. In 1994, 29 percent of the EPA's rules had such impacts.

### The EPA's Impact On State and Local Governments

The previous section noted that rules impacting state and local governments have declined over the past five years. For rules impacting local governments, this pattern holds true for the EPA in isolation as well. But at

**Figure 22**  
**EPA Rules**  
**(1994-98)**



Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1994-98.

least as far as impacts on state governments are concerned, the EPA's rules have taken a considerable 31.6 percent turn upward, from 190 to 250, since 1994.<sup>38</sup> That the EPA's rules were heavily implicated in the complaints that led to passage of the Unfunded Mandates Act in the first place should give pause to state officials, especially since the EPA issued more rules than any other agency impacting both the state and local levels.

### **“Reinventing” \$100 Million Rules at the EPA**

Of the 462 rules anticipated by the EPA in the October 1998 *Agenda*, 38 are classified as “economically significant,” \$100 million-per-year rules. Of the EPA's 38 economically significant rules, just three are in the “reinventing government” category.<sup>39</sup> Reinventing government refers to the initiative by President Bill Clinton and managed by Vice President Al Gore, to reduce unnecessary government burdens. The cost savings of these rules are (curiously) not presented in the *Unified Agenda* write-up of each rule. However, granting the EPA the benefit of the doubt and assuming that these three reinvented rulemakings will actually *reduce* yearly regulatory costs by \$100 million apiece would mean that the EPA expects to impose new regulations costing \$3.5 billion annually. (This back-of-the-envelope calculation simply multiplies the EPA's 38 economically significant rules times their lower-bound costs of \$100 million apiece, and from this subtracts the assumed \$300 million savings from the three reinvented rules.) These new annual regulatory costs are amounts that the public must pay in addition to the budgeted amounts the EPA spends to write and enforce regulations. For fiscal year 2000, the agency's overall budget request is \$34 billion, a 5 percent increase over fiscal year 1999's appropriation.<sup>40</sup>

### **The EPA Regulatory Plan's Omissions Render It Nearly Useless**

The October 1994 *Unified Agenda* introduced an annual supplement called the *Regulatory Plan*. Published as a subset of the *Unified Agenda*, the *Regulatory Plan* calls for all agencies to specify “the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year.”<sup>41</sup> In other words, agencies and departments in the *Regulatory Plan* present their priorities for significant regulatory actions to be issued in proposed or final form for the coming year.<sup>42</sup> (Rules at the pre-rule, long-term and completed stages are not required to be disclosed in the *Regulatory Plan*.) Despite their being highlighted, the precise compliance costs to the public of these “priorities” is difficult to establish, because, rather than being required by law, costs are “optional information” that agencies provide “at their discretion.”<sup>43</sup> Unfortunately, agencies fail to list all of their significant regulatory actions — the “economically significant” rules — in the *Plan*, making comparisons of high-level regulatory activity and impacts both across years and across agencies impossible. This renders the *Plan* relatively useless for analysis purposes, or in any meaningful way for ascertaining the overall regulatory

*EPA rules jumped 7.4 percent last year.*

*38 percent of the EPA's rules place burdens on small businesses.*



impact of an agency. This shortfall may need to be corrected in law as legislators consider regulatory reform and disclosure options.

The EPA's presentation illustrates the *Regulatory Plan* concept's weaknesses. While bold in proposing new regulatory initiatives, information that would assure that burdens are minimized or at least openly broadcast is scant, exemplified by the failure to appreciate the need to prioritize economically significant rules for the benefit of those who will shoulder the costs. At the very least, one would expect all economically significant proposed and final rules to be included in any agency's regulatory plan.

As noted earlier in Figure 13's breakdown of rules by agency, the EPA has 462 rules in the 1998 *Agenda*. Forty-five of these the agency specifically excerpted as priority proposed and final rules in its *Regulatory Plan*. Of these 45, 17 are classified in the \$100 million-plus economically significant category.<sup>44</sup> The rest are rated priorities for other assorted purposes.

*Just three of the EPA's 38 economically significant rulemakings purport to reduce regulatory burdens..*

But fully 38 of the EPA's rules are rated economically significant (refer to Figure 15). Of these, 27 are at the proposed and final stage, which surely qualifies them for inclusion in the *Regulatory Plan*, which calls for agencies to list the "most important significant actions" at the proposed and final stages, but, as noted, only 17 of them are. The EPA chose to list only 17 of its 27 proposed and final economically significant rules that potentially could be listed in its *Plan*. Thus 10 economically significant rules proposed and final rules escape being listed by the EPA in its *Plan* (See Figure 23). These 10 neglected rules represent at least \$1 billion in new costs (10 rules times \$100 million apiece) that a casual observer of the EPA's *Regulatory Plan* would never see. Granted, what gets regarded as a priority will clearly vary among different observers; but at the very least, most reasonable individuals would agree that economically significant rules deserve priority listing in all circumstances and for all agencies. *Regulatory Plans*, by emphasizing new regulatory initiatives without owning up to their costs, give an incomplete representation of the real impacts of regulations to come.

Agency self-reporting poses inherent problems of objectivity in the first place, but compounding that problem with such omissions as hundreds of millions of dollars in costly regulations irreparably compromises the *Regulatory Plan* concept in terms of its usefulness to anyone outside the agency who wants a handle on the overall merits of what agencies are doing. At the very least, *all* economically significant proposed and final rules should be listed in each agency's *Regulatory Plan*. Future editions of the *Regulatory Plan* must offer some philosophy of costs and benefits and criteria for inclusion that can make the document more coherent and meaningful.

**Figure 23**  
**The EPA Fails to Disclose All High-Cost Rules In Its *Regulatory Plan***

• Number of Economically Significant Rules in the EPA's Full <i>Agenda</i> :	38
• Subset of Economically Significant Rules in the EPA's Full <i>Agenda</i> at Proposed or Final Stage	27
• Number of These Economically Significant Proposed and Final Rules that the EPA Lists in its <i>Regulatory Plan</i> :	17
• EPA <i>Regulatory Plan</i> Reporting Shortfall:	10

Source: Compiled by CEI from the *Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, October 1998.

**The EPA's *Regulatory Plan* Does Not Justify Costly Rules with Documented Benefits**

It is certainly the case that, even if costs are high and benefits are non-existent, an agency must issue a rule if required to by legislation. So, while we may fault agencies for failing to list all their anticipated costly rules in the annual *Regulatory Plan*, agencies are not necessarily to be faulted for not having cost-benefit assessments on hand for all their rules — even those that are priorities. As a new GAO study makes clear, agencies often do lack discretion in issuing rules.<sup>45</sup>

Citizens should know some range of costs and benefits in a quantitative sense before rules are proposed, and certainly before they are finalized. The fact that they generally do not shows how far policymakers have to go in ensuring disclosure and being forthright with citizens.

Even the existence of the \$100 million threshold (the judgment that a rule is economically significant is not necessarily the result of rigorous quantitative analysis) and the determination that a rule is economically significant is no guarantee that cost-benefit analysis will get done. For example, looking solely at the 17 economically significant rules contained within the EPA's *Regulatory Plan*, it is clear that the agency falls short in providing cost estimates for all the economically significant rules that it does manage to designate as priorities. As noted, 17 rules in the EPA's 1998 *Regulatory Plan* are economically significant. Of those, only 10 are accompanied by cost estimates. The costs of the remaining rules are a mystery. Also, of the 17 economically significant rules in the EPA's plan, only eight feature benefit estimates. So of the EPA's costliest, highest-priority rules, benefits are known for fewer than half.

*New EPA rules will cost at least \$3.5 billion.*

If costs are not calculated and presented openly to the public even when required by Executive Order, it is likely that benefits are not. Indeed, there is such mismatch between the existence of cost and benefit estimates at the EPA that neither the agency nor the OMB may be justified in regarding its enterprise as producing net benefits. For example, what are the benefits of the other nine economically significant rules in the *Regulatory Plan*? What are the benefits of the other 10 economically significant rules at the proposed and final stage that the EPA did not bother to list in its *Regulatory Plan* at all? What are the benefits of the EPA's entire 462-rule enterprise in the *Unified Agenda*?

In sum, the EPA is contemplating the greatest number of \$100 million-plus rules (38), the second highest number of rules affecting small business (178), the most rules impacting state governments (250) and the greatest number impacting local governments (147). Yet the agency cannot claim with any certainty that it does more good than harm overall. If the agency cannot determine whether benefits outweigh costs — and indeed this goes for any agency — then Congress should directly vote to approve such rules. At the very least, greater disclosure of what agencies really know about the costs and benefits of their actions can be increased, as the next section explains.

*Agencies fail to list all of their high-cost rules in the annual Regulatory Plans, limiting the Plans' value to outsiders.*

#### **ENDING REGULATION WITHOUT REPRESENTATION: IMPROVING DISCLOSURE AND ENSURING CONGRESSIONAL ACCOUNTABILITY FOR ALL REGULATIONS**

##### **Easy Steps Toward Improving Regulatory Disclosure**

Federal regulatory compliance costs to Americans total hundreds of billions of dollars every year. As they do with taxes, regulated businesses will often pass along much of their compliance costs to consumers in the prices of goods and services, making regulations a form of hidden taxes on business and consumers. While it is certainly true that some regulations may produce overall benefits that exceed overall costs, costs and benefits are known for relatively few regulations. On the other hand, requiring one portion of the public to bear the costs of supplying benefits enjoyed by another may be unfair. Without any official regulatory accounting it is difficult to know whether society wins or loses when Uncle Sam regulates, particularly on an aggregate scale, rendering even the common claim of overall net benefits from the regulatory state unwieldy. This is why, to the extent possible, concise regulatory data should be disclosed and published officially, and why Congress — our elected representatives — should assume responsibility and put an end to off-budget regulation without representation altogether.

Boosting disclosure of regulation's costs, benefits and effects should be a priority of regulatory reformers. But engaging in a protracted legislative fight over instituting comprehensive reform, such as requiring more cost-

benefit and risk assessment analysis from agencies isn't the only option, nor necessarily even the best one. A more modest incremental step would be to require the publication of a summary of *already available*, but scattered, data. This simple step alone would help transform today's regulatory culture from one of secrecy and bureaucratic brush-off to one of maximum disclosure. While agencies and opponents of regulatory overhauls often demonize attempts to institute comprehensive regulatory reform, simple steps that merely enhance disclosure — but remove the ability to hide — would be far more difficult to credibly oppose.

As noted, today's regulations are broken into those that are “economically significant” (over \$100 million in annual costs), and those that are not. An obvious problem with this threshold is that — unless rigorous analysis has been done — reformers can point, not to what the regulatory state actually costs, but only to a *minimum* level of such costs. For example, given that 117 rules in the October 1998 *Unified Agenda* will cost at least \$100 million, we know that the total annual costs for these rules will be *at least* \$11.7 billion (\$100 million per rule times 117 rules). But, unless one combs through the *Unified Agenda* or digs up agency Regulatory Impact Analyses, that minimum level of costs is all that can easily be determined (and even these steps don't guarantee that credible numbers will be found). Today, agencies need to indicate only that a floor has been reached. They do not specify whether any or all of their economically significant rules cost only \$100 million, or something far beyond.

Thus, a simple intermediate reform would be to slightly alter the definition of “significant rule” such that they reflect increasing levels of costs. The OMB should recommend that agencies break up their economically significant rules into separate categories that represent increasing costs. Figure 24 presents an example, breaking economically significant rules into five types.

This modest step could render the “economically significant” designation substantially more informative than it is now. Agencies can categorize their rules based on cost information provided in the Regulatory Impact Analyses accompanying many economically significant rules, or separate internal or external estimates. This reform could be accomplished by an executive order, or a request from OMB. Or Congress could require it. This would be a very modest step toward greater disclosure, that could still be important. Recall the EPA's ozone/particulate matter rule of 1997 discussed earlier. Currently, we merely know that both rules are “economically significant,” distinguishing them little from a hundred others. Knowing instead that the EPA is imposing “Category 3” and “Category 4” rules would be far more informative.

Using the resources at hand, other steps beyond expanding the definition of an economically significant rule make sense as well. Under the existing

*To their credit, agencies often lack discretion when issuing costly rules, but are following the dictates of Congress.*

**Figure 24**  
**Proposed Breakdown of “Economically Significant” Rules**

Category 1	\$100 million - \$500 million
Category 2	\$500 million - \$1 billion
Category 3	\$1 billion - \$5 billion
Category 4	\$5 billion - \$10 billion
Category 5	Over \$10 billion

reporting format, interested citizens must comb through the *Unified Agenda*'s 1,000-plus pages of small, multi-column print to accumulate information on rules, such as numbers produced by each agency, their costs and benefits (if available) and so on. Often, good information is available, but too hard to accumulate. Creating an official and concise presentation of known information about regulatory costs and trends is an obvious and necessary step toward regulatory disclosure. There is no reason why the *Unified Agenda* needs to be such an unfriendly document, for example. One simple reform would require that the *Agenda*'s data be officially summarized in chart form each year — perhaps as a chapter in the *Agenda* itself, or better, in the *Fiscal Budget* or the *Economic Report of the President*. That alone would elevate the entire notion of regulatory disclosure, and clearly make the *Agenda* a far more useful document for policymakers and analysts.

*Fewer than half of the EPA's \$100 million rules are accompanied by benefit estimates.*

One possible presentation would be a “Regulatory Report Card” like the one in Figure 25. The successes or failures of any special initiative, such as the current administration's Reinventing Government effort, could be presented as well. Topping off the Report Card with five-year historical data would tremendously enhance the usefulness of the *Unified Agenda*.

Elegant cost-benefit data would not be necessary to begin producing a Regulatory Report Card. Such a report card could be produced immediately if Congress chose to require it. Its ease of implementation, the fact that it only requires cataloging of the already known gives Report Card-style disclosure a distinct advantage over contentious comprehensive reform and makes it a difficult reform to oppose. Despite its simplicity, trends in this data would prove vital to scholars, third-party researchers and to Congress. Any improvement in disclosure makes rudimentary cross-agency comparisons simpler, and is a step toward a more rational, above-board and accountable regulatory state. By making agency activity more explicit, reforms such as a Report Card help show that the growth of the regulatory state is taken seriously on an official level.

**“No Regulation Without Representation!”**

Better disclosure through Report Cards or other tools will quickly reveal that Congress itself, rather than agencies, is the prime mover behind the

## Figure 25 Regulatory Report Card

### **Recommended Official Summary Data by Program, Agency, and Grand Total**

- Numbers of economically significant (\$100 million +) rules by category (See Figure 24.)
- Numbers of minor rules
- Numbers of rules that are deregulatory rather than regulatory
- Numbers of major and minor rules that contain numerical cost estimates
- Numbers of rules that affect agency procedure alone
- Rollover: Which rules are appearing in the *Agenda* for the first time?
- Tallies of cost estimates that exist, with subtotals by agencies and grand total
- Numbers/Percentages of major and minor rules without cost estimates
- Short explanation of ratio and primary reason for lack of cost estimates
- Numbers of major and minor rules required by statute
- Numbers of major and minor rules that are discretionary
- Numbers of rules facing statutory or judicial deadlines
- Numbers of rules for which cost calculations are statutorily prohibited
- Percentages of rules reviewed at the OMB
- Numbers of *Federal Register* pages devoted to final rules and proposed rules
- Five-year historical tables for all the above

regulatory state's growth. As the earlier-mentioned GAO report found, a Regulatory Report Card would reveal that Congress applied many of the statutory deadlines to economically significant and other rules, effectively making reducing regulatory burdens at the agency level impossible. Also, the OMB's claim and those of the regulatory state's defenders that regulation on the whole produces net benefits would face the scrutiny they deserve. Doing so would be rather simple: Presenting the percentages of rules with and without benefit calculations would reveal whether or not the regulatory state's defenders can credibly claim that regulation is doing more good than harm.

Years of unbudgeted regulatory growth should be enough to have taught policymakers that regulations don't necessarily do good things just because agencies or the rules' advocates say so. Rules can do more harm than good, but most often we simply don't know whether benefits exceed costs. But the real culprits are not the agencies: Congress, our body of elected representatives, shirks its duty to make the tough calls itself and delegates too much of its lawmaking power to unelected agencies, and then fails to require that they make any guarantee of net benefits. 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, since the only

*Better disclosure will quickly reveal that Congress itself is the prime mover behind the regulatory state's growth.*

measure of agency productivity — other than growth in its budget and number of employees — is the number of regulations. One needn't waste time blaming agencies for emphasizing the very regulating they were set up to do in the first place. Better to point the finger at Congress.

*An annual Regulatory Report Card is a start, but it is not enough.*

Since agencies are inherently unaccountable to voters, an annual Regulatory Report Card is a start, but it is not enough. Any regulatory reforms — including the comprehensive reforms proposed by some Republicans — that rely on agencies policing themselves will not harness the regulatory state. Instead, making Congress directly answerable to the voters for the costs agencies impose on the public would mark the full realization of accountable regulation. The way to control regulation is not to merely require agencies to perform cost-benefit analysis, but to require Congress to vote on agencies' final rules before they are binding on the public.

Congressional accountability for regulatory costs assumes new importance in today's new era of budget surpluses. If Congress's alternatives are to spend or to issue new regulations, a balanced budget constraint invites Congress to regulate rather than to increase government spending on a program to accomplish its ends. For example, suppose Congress wants to create a job training program to appease constituents or otherwise fulfill some promise to the voters. To fund such a program it can approve a new appropriation through the Department of Labor, which will appear in the *Federal Budget* and reduce the government surplus. If that option isn't appealing, Congress can simply pass a law requiring Fortune 500 companies to fund such a program. That law, of course, would be carried out through new regulations issued by the Labor Department. Except for the costs of hiring new Labor Department employees to manage the program, the second option wouldn't add to federal spending but would nonetheless let Congress take credit for "good deeds." In this manner, government can expand almost indefinitely without explicitly taxing anyone a single penny, and this is what must be stopped by making Congress accountable for regulation in the same manner it is accountable for ordinary government spending. We at least know the size of the deficit, with precision. But to take steps toward knowing the true scope of the regulatory burden, excessive delegation must be ended.

*The way to control regulation is to require Congress to vote on agencies' final rules before they are binding on the public.*

Of course, Americans cannot vote out regulators who overstep their bounds, yet Congress often lays blame for excessive regulation at the regulators' feet. The solution is to end delegation and to make Congress directly accountable for regulations agencies impose. Disclosure, through tools like the Report Card, will make regulatory costs (like taxes) as transparent as possible, and accountability will ensure that Congress bears direct responsibility to the voters for every dollar of new regulatory costs. Excessive delegation of legislative power to unelected agencies must be halted. If the regulatory state is ever going to be controlled in any real sense, the representatives we elect must be required to explicitly approve every significant regulation that agencies impose. Such approvals can be done in

an expedited manner, if the concern is that Congress will become bogged down. (There is no reason why agency regulations cannot be voted on *en bloc*, for example. And congressional approval of new regulation can also be given by voice vote, rather than by tabulated roll call votes.) But a problem with this complaint is those who make it don't seem to mind bogging down private citizens with rules pouring out of agencies.

Congress could start small by simply requiring that widely dispersed publicly available summary data be compiled and presented in a form such as a Regulatory Report Card. Publishing such information as a chapter in the annual *Federal Budget* would make it far more meaningful. Congress might also implement a limited regulatory cost (not benefit) budget, modeled on, but far less sweeping than, the fiscal budget itself.<sup>46</sup> Whatever improvements in disclosure are made, however, congressional approval — rather than agency approval — of both regulations and regulatory costs should be the ultimate goal of regulatory reform. When Congress ensures transparency and disclosure and finally assumes responsibility for the growth of the regulatory state, it will put in place a fairer and more rational regulatory system.

*When Congress ensures transparency and disclosure it will put in place a fairer and more rational regulatory system.*



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- <sup>8</sup> 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. See also Hopkins, August 1996, p. 4.
- <sup>9</sup> See Hopkins, August 1996, p. 5.
- <sup>10</sup> These breakdowns are available in Hopkins, August 1996, p. 10; U.S. Small Business Administration, October 1995, Table 3, p. 28; and also Thomas D. Hopkins, *Profiles of Regulatory Costs: Report to the Small Business Administration*, November 1995, Appendix A, Table A-1. Hopkins original data appear in 1995 dollars: Figure 3 in this paper adjusts them by the change in the CPI between 1995 and 1997 as described above in footnote 7.
- <sup>11</sup> The spending figure is from *The Economic and Budget Outlook: An Update*, Congressional Budget Office, August 1998, p. 41.
- <sup>12</sup> Individual income tax figures from Table No. 539. Federal Receipts, by Source: 1980 to 1998, *Statistical Abstract of the United States 1998*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 340.
- <sup>13</sup> *Ibid.*
- <sup>14</sup> Corporate profits from Table No. 902. Corporate Profits, Taxes, and Dividends: 1990 to 1996, *Statistical Abstract of the United States 1998*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 565.
- <sup>15</sup> GNP figures for Canada and Mexico are from Table No. 1354, “Gross National Product, by Country: 1985 to 1995,” *Statistical Abstract of the United States 1998*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 835.
- <sup>16</sup> GDP figure is from Congressional Budget Office, *The Economic and Budget Outlook: Fiscal Years 2000-2009*, January 1999, p. 18.
- <sup>17</sup> *Regulatory Changes and Trends: An Analysis of the 1999 Federal Budget*, by Melinda Warren and William F. Lauber, Center for the Study of American Business, Regulatory Budget Report 21, November 1998, Table A-5, p. 20. Original 1992 constant dollars used by CSAB are in this report adjusted by the change in the CPI between 1992 and 1997, from Table No. 772. “Consumer Price Indexes (CPI-U), by Major Groups: 1939

to 1997,” Statistical Abstract of the United States 1998, U.S Department of Commerce, Economics and Statistics Administration, Bureau of the Census, Table No. 772, p. 489.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid. p. 1.

<sup>20</sup> Ibid., p. 21

<sup>21</sup> Claire M. Hintz, *Tax Burden on American Families Rises Again*, Tax Foundation Special Report, November 1997, No. 74.

<sup>22</sup> Hopkins, 1995, Appendix A, Table A-2, “Federal Receipts and Regulatory Costs Per Household in 1995 Dollars, Case A.” Hopkins’ 1995 dollars are adjusted by the change in the CPI between 1995 and 1997, from Table No. 772. “Consumer Price Indexes (CPI-U), by Major Groups: 1939 to 1997,” *Statistical Abstract of the United States 1998*, U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census, p. 489.

<sup>23</sup> *Cost of Government Day: June 25, 1998*, Americans for Tax Reform Foundation, Washington, D.C., available on the Web at [www.atr.org/cogd/a.htm](http://www.atr.org/cogd/a.htm).

<sup>24</sup> The often-cited number of 87,012 pages includes blank pages, which are subtracted here.

<sup>25</sup> *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, Regulatory Information Service Center, reprinted from *Federal Register* of Monday, Nov. 9, 1998, Volume 63, No. 216, October 1998.

<sup>26</sup> Though the *Agenda* is published twice a year, this document details each year’s October count. April tallies may be found in the Historical Tables appendix for some years.

<sup>27</sup> “Costs of Ozone Standard Outweigh Benefits, Final Impact Analysis Shows,” *BNA Daily Environment Report*, No. 142, 7-24-97

<sup>28</sup> Regulatory Information Service Center, October 1997, p. 57006.

<sup>29</sup> Regulatory Information Service Center, October 1998, p. 62813.

<sup>30</sup> The bill also contained provisions allowing Congress an opportunity to review agency rules before they become effective, potentially raising congressional accountability to new heights. These provisions were signed into law as a part of H.R. 3136 on March 29, 1996, the Contract with America Advancement Act, which also included an increase in the debt ceiling and a Social Security earnings limitation increase.

<sup>31</sup> Data can be found in Historical Tables, Part C.

<sup>32</sup> In 1993, Executive Order 12866, “Regulatory Planning and Review” directed agencies to “assess the effects of Federal regulations on State, local, and tribal governments.” Similarly, 1993’s Executive Order 12875, “Enhancing the Intergovernmental Partnership,” required that agencies “reduce the imposition of unfunded mandates” on those same lower-level jurisdictions. *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, Regulatory Information Service Center, October 1998, p. 62831.

<sup>33</sup> *An Assessment of the Unfunded Mandates Reform Act in 1998* Congressional Budget Office, February 1999, p. vi

<sup>34</sup> Ibid, p. 2.

<sup>35</sup> Melinda Warren, p. 6, and Table A-4, p. 19.

<sup>36</sup> Figures from 1994 are from the CEI tally of the EPA entries in *The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions*, Regulatory Information Service Center, reprinted from *Federal Register* of Monday, Nov. 14, 1994, Volume 59, No. 218, October 1994.

<sup>37</sup> See Historical Tables, Part E, for the 1997 major rule data.

<sup>38</sup> Refer to Historical Tables, Part G: Federal Rules Impacting Lower-Level Governments (1993-98).

<sup>39</sup> The rules are #3494, Transportation Conformity Rule Amendments; #3694, PCBS: Polychlorinated Biphenyls Disposal Amendments; and #3739, Corrective Action for Solid Waste Management Units at Hazardous Waste Management Facilities

<sup>40</sup> “Enviro-Newsbrief,” U.S. Environmental Protection Agency, Feb. 1, 1999.

<sup>41</sup> Regulatory Information Service Center, October 1997, p. 57005.

<sup>42</sup> 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, Nov. 14, 1994, Vol. 59, No. 218, p. 50006.

<sup>43</sup> Regulatory Information Service Center, October 1994, p. 57008.

<sup>44</sup> Refer to the Appendix for a list of these rules.

<sup>45</sup> See *Some Agencies’ Claims Regarding Lack of Rulemaking Discretion Have Merit*, U.S. States General Accounting Office, GAO/GGD-99-20, January 1999.

<sup>46</sup> For further detail, see Clyde Wayne Crews Jr., *Promise and Peril: Implementing a Regulatory Budget*, Competitive Enterprise Institute: Washington, D.C. (CEI Regulatory Reform Project), April 1996. See also Christopher C. DeMuth, “The Regulatory Budget,” *Regulation: The American Enterprise Institute Journal on Government and Society*, March/April 1980, pp. 29-44.

## Appendix

### Part 1: Summary of economically significant rules in the October 1998 Regulatory Plan

#### USDA:

1. GENERAL ADMINISTRATIVE REGULATIONS; NON-STANDARD UNDERWRITING CLASSIFICATION SYSTEM
2. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART T – REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS
3. GENERAL ADMINISTRATIVE REGULATIONS; SUBPART U; AND CATASTROPHIC RISK PROTECTION ENDORSEMENT – REGULATIONS FOR THE 1999 AND SUBSEQUENT REINSURANCE YEARS
6. FSP: PERSONAL RESPONSIBILITY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996
8. FSP: NONDISCRETIONARY PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

#### DOE:

18. ENERGY EFFICIENCY STANDARDS RULEMAKINGS AND DETERMINATIONS FOR HIGH-PRIORITY CONSUMER PRODUCTS AND COMMERCIAL EQUIPMENT

#### HHS:

25. FRUIT AND VEGETABLE JUICES: DEVELOPMENT OF HAZARD ANALYSIS CRITICAL CONTROL POINTS (HAACP) AND LABEL WARNING STATEMENTS FOR JUICES
29. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT (HCFA-1005-P)
31. EXPANDED COVERAGE FOR DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES HCFA-3002-P

#### HUD:

36. LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES
39. RESPA: DISCLOSURE OF FEES PAID TO RETAIL LENDERS (BROKERS) (FR-3780)

#### DOL:

56. DEFINING AND DELIMITING THE TERM “ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY” (ESA/W-H)
60. REVISION OF THE FORM 5500 SERIES AND IMPLEMENTING AND RELATED REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA)
73. STANDARDS ADVISORY COMMITTEE ON METAL-ORNING FLUIDS
74. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA
75. STEEL ERECTION (PART 1926) (SAFETY PROTECTION FOR IRONWORKERS)
76. PREVENTION OF WORK-RELATED MUSCULOSKELETAL DISORDERS
77. SAFETY AND HEALTH PROGRAMS (FOR GENERAL INDUSTRY AND THE MARITIME INDUSTRIES)
79. PERMISSIBLE EXPOSURE LIMITS (PELS) FOR AIR CONTAMINANTS

#### DOT:

88. HOURS OF SERVICE OF DRIVERS (SECTION 610 REVIEW)
90. ADVANCED AIR BAGS

#### EPA:

103. TIER II LIGHT-DUTY VEHICLE, LIGHT-DUTY TRUCK, HEAVY-DUTY GASOLINE VEHICLE EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS
104. NAAQS: SULFUR DIOXIDE (REVIEW AND IMPLEMENTATION)
109. LEAD; RULEMAKINGS UNDER TSCA SECTION 402, LEAD-BASED PAINT ACTIVITIES
111. PCBs; POLYCHLORINATED BIPHENYL; USE AUTHORIZATIONS
114. TRI; REPORTING THRESHOLD AMENDMENT; TOXIC CHEMICALS RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW
116. TRI; ADDITION OF OIL AND GAS EXPLORATION AND PROTECTION TO THE TOXIC RELEASE INVENTORY
123. NATIONAL PRIMARY DRINKING WATER REGULATIONS; RADON
124. NATIONAL PRIMARY DRINKING WATER REGULATIONS; GROUND WATER RULE
128. AMENDMENTS – INTEGRATED NESHAP AND EFFLUENT GUIDELINES: PULP AND PAPER
131. CONTROL OF EMISSIONS OF AIR POLLUTION FROM HIGHWAY HEAVY-DUTY ENGINES AND DIESEL PROCESSING
133. GROUND WATER AND PESTICIDE MANAGEMENT PLAN
134. LEAD; TSCA SECTION 403; IDENTIFICATION OF DANGEROUS LEVELS OF LEAD
135. REVISED STANDARDS FOR HAZARDOUS WASTE COMBUSTION FACILITIES
137. EFFLUENT GUIDELINES AND STANDARDS FOR THE INDUSTRIAL LAUNDRIES POINT SOURCE CATEGORY
139. NPDES COMPREHENSIVE STORMWATER PHASE II REGULATIONS

140. NATIONAL PRIMARY DRINKING WATER REGULATIONS: STAGE I DISINFECTANT/DISINFECTION BYPRODUCTS RULE  
141. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INTERIM ENHANCED SURFACE WATER TREATMENT RULE

**CPSC:**

166. FLAMMABILITY STANDARD FOR UPHOLSTERED FURNITURE

**Part 2. Summary of economically significant rules in the October 1998 *Unified Agenda***

**USDA:**

176. NATIONAL ORGANIC PROGRAM  
185. MILK IN THE NEW ENGLAND AND OTHER MARKETING AREAS (CLASS I AND II PRICES)  
217. AMENDMENTS TO THE FARMER ACCOUNT SERVICING POLICIES  
261. PERMIT FARM SERVICES AGENCY TO SELL OR ASSIGN FARM LOAN MORTGAGES AND NOTES  
289. IMPORTATION OF POULTRY FROM SINALOA AND SONORA, MEXICO  
293. KARNAL BUNT  
397. WIC: REQUIREMENTS FOR AND EVALUATION OF WIC PROGRAM REQUESTS FOR INFANT FORMULA REBATE CONTRACTS  
411. FOOD STAMP PROVISIONS OF THE BALANCED BUDGET ACT OF 1997  
435. RETAINED WATER IN RAW MEAT AND POULTRY PRODUCTS; POULTRY CHILLING PERFORMANCE STANDARDS  
440. IRRADIATION OF MEAT AND MEAT PRODUCTS  
474. CCC SUPPLIER CREDIT GUARANTEE PROGRAM

**DOE:**

1067. ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS  
1070. ENERGY EFFICIENCY STANDARDS FOR LAMP BALLASTS  
1071. ENERGY EFFICIENCY STANDARDS FOR WATER HEATERS  
1084. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES, BOILERS, AND MOBILE HOME FURNACES  
1087. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND DISHWASHERS  
1089. ENERGY EFFICIENCY STANDARDS FOR 1-200 HP ELECTRIC MOTORS

**HHS:**

1395. CHILDREN'S HEALTH INSURANCE: PROGRAM IMPLEMENTATIONS; STATE PLAN APPROVAL; STATE PAYMENT; COORDINATION WITH STATE MEDICAID PROGRAM (HCFA-2006-P)  
1397. MEDICAID PROGRAM; STATE ALLOTMENTS FOR PAYMENT OF MEDICARE PART B PREMIUMS FOR QUALIFIED INDIVIDUALS: FEDERAL FISCAL YEAR 1998 (HCFA-2005-NC)  
1399. MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES  
1403. SECURITY AND ELECTRONIC SIGNATURE STANDARDS (HCFA-0049-P)  
1406. STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS AND PAYMENTS TO STATES (HCFA-2114-FC)  
1421. MEDICARE PROGRAM; STANDARDIZATION OF MEDICARE COVERAGE FOR BONE MASS MEASUREMENTS (HCFA-3004-IFC)

**HUD:**

1523. SINGLE-FAMILY PROPERTY DISPOSITION

**DOI:**

1676. PROPOSED APPROVAL OF SELECTED STATE PROGRAMS ALLOWING THE EXPORT OF GINSENG HARVESTED IN 1997-98  
1751. MIGRATORY BIRD HUNTING; PROPOSED 1997-98 MIGRATORY GAME BIRD HUNTING REGULATIONS (PRELIMINARY) WITH REQUESTS FOR INDIAN TRIBAL PROPOSALS

**DOL:**

2224. OCCUPATIONAL EXPOSURE TO HEXAVALENT CHROMIUM (PREVENTING OCCUPATIONAL ILLNESS: CHROMIUM)  
2226. CONFINED SPACES IN CONSTRUCTION (PART 1926): PREVENTING SUFFOCATION/EXPLOSIONS IN CONFINED SPACES  
2237. RESPIRATORY PROTECTION (PROPER USE OF MODERN RESPIRATORS)  
2239. POWERED INDUSTRIAL TRUCK OPERATOR TRAINING (INDUSTRIAL TRUCK SAFETY TRAINING)  
2245. INDOOR AIR QUALITY IN THE WORKPLACE

2249. SAFETY AND HEALTH PROGRAMS FOR CONSTRUCTION  
2250. CONTROL OF HAZARDOUS ENERGY (LOCKOUT) IN CONSTRUCTION (PART 1926) (PREVENTING CONSTRUCTION INJURIES/FATALITIES; LOCKOUT)

**DOT:**

2308. +DOMESTIC PASSENGER MANIFEST INFORMATION  
2485. +MINIMUM TRAINING REQUIREMENTS FOR OPERATORS AND TRAINING INSTRUCTORS OF MULTIPLE TRAILER COMBINATION VEHICLES  
2510. +PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION; LIGHTING DEVICES, REFLECTORS, AND ELECTRICAL EQUIPMENT  
2665. LIGHT TRUCK FUEL ECONOMY STANDARDS FOR MODEL YEAR 2000

**ATBCB:**

3361. AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES: PLAY AREAS

**EPA:**

3424. REVISIONS TO NEW SOURCE REVIEW (NSR) REGULATIONS TO IMPLEMENT THE NEW NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) FOR OZONE  
3430. FEDERAL IMPLEMENTATION PLANS TO REDUCE THE REGIONAL TRANSPORT OF OZONE IN THE EASTERN UNITED STATES; PROPOSED RULES  
3431. FINDINGS OF SIGNIFICANT CONTRIBUTION AND RULEMAKING ON SECTION 126 PETITIONS FOR PURPOSES OF REDUCING INTERSTATE OZONE TRANSPORT  
3483. FINDING OF SIGNIFICANT CONTRIBUTION AND RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP (OTAG) REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE  
3489. SUPPLEMENTAL RULEMAKING FOR CERTAIN STATES IN THE OZONE TRANSPORT ASSESSMENT GROUP REGION FOR PURPOSES OF REDUCING REGIONAL TRANSPORT OF OZONE  
3494. TRANSPORTATION CONFORMITY RULE AMENDMENTS: FLEXIBILITY AND STREAMLINING  
3523. NSPS: NITROGEN OXIDE EMISSIONS FROM FOSSIL FUEL-FIRED STEAM-GENERATING UNITS: REVISION  
3532. NESHAP: INTEGRATED IRON AND STEEL  
3561. NESHAP: INDUSTRIAL, COMMERCIAL AND INSTITUTIONAL BOILERS AND PROCESS HEATERS  
3562. INDUSTRIAL COMBUSTION COORDINATED RULEMAKING – ICCR PROJECT  
3590. LOCOMOTIVE EMISSION STANDARDS  
3596. TIER II (PHASE II) STUDY TO ASSESS FURTHER REDUCTIONS IN LIGHT-DUTY VEHICLES AND LIGHT-DUTY TRUCKS TAILPIPE EMISSION STANDARDS  
3616. AMENDMENTS TO MUNICIPAL SOLID WASTE LANDFILLS  
3654. LEAD-BASED PAINT ACTIVITIES RULES; TRAINING, ACCREDITATION, AND CERTIFICATION RULE AND MODEL STATE PLAN RULE  
3667. LEAD-BASED PAINT ACTIVITIES; TRAINING AND CERTIFICATION FOR RENOVATION AND REMODELING  
3684. TRI; DATA EXPANSION AMENDMENTS; TOXIC CHEMICAL RELEASE REPORTING; COMMUNITY RIGHT-TO-KNOW  
3694. PCBs; POLYCHLORINATED BIPHENYLS (PCBS) DISPOSAL AMENDMENTS  
3739. CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS (SWMUS) AT HAZARDOUS WASTE MANAGEMENT FACILITIES  
3794. EFFLUENT GUIDELINES AND STANDARDS FOR THE METAL PRODUCTS AND MACHINERY CATEGORY, PHASES 1 AND 2

**SBA**

4146. SMALL BUSINESS SIZE STANDARDS; HEALTH CARE INDUSTRIES  
4147. SMALL BUSINESS SIZE STANDARDS; NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM  
4148. SBIC PROGRAM REFORM  
4149. PLP LENDERS' RESPONSIBILITIES FOR SERVICING AND LIQUIDATING LOANS  
4150. SERVICING OF GUARANTEED LOANS  
4153. SMALL BUSINESS SIZE STANDARDS; ENGINEERING SERVICES, ARCHITECTURAL SERVICES, AND SURVEYING AND MAPPING SERVICES  
4156. SMALL BUSINESS SIZE STANDARDS FOR NATURAL GAS DISTRIBUTION

**SSA**

4227. SUPPLEMENTAL SECURITY INCOME; DETERMINING DISABILITY FOR A CHILD UNDER 18 (625F)

**FAR**

4250. FAR CASE 97-603, EMPOWERMENT CONTRACTING

4251. FAR CASES 97-004A AND 97-004B, REFORM OF AFFIRMATIVE ACTION IN FEDERAL PROCUREMENT

**FCC**

4368. ACCESS CHARGE REFORM FOR RATE-OF-RETURN LOCAL EXCHANGE CARRIERS

4382. MILLIMETER WAVE SPECTRUM ALLOCATION

4383. DIGITAL EQUIPMENT DEREGULATION

4387. UNLICENSED NII AT 5 GHZ

4409. ADVANCED TELEVISION SERVICE (MM DOCKET 87-268)

4424. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1998

4425. ASSESSMENT AND COLLECTION OF REGULATORY FEES FOR FY 1999

**NRC**

4638. REVISION OF FEE SCHEDULES; 100 PERCENT FEE RECOVERY, FY 1998



# TEN THOUSAND COMMANDMENTS

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## HISTORICAL TABLES

**Historical Tables, Part A:  
Federal Register Page History (1936-98)\***

<b>Year</b>	<b>Unadjusted Page Count</b>	<b>Jumps/Blanks</b>	<b>Adjusted Page Count</b>
1936	2,620	not available (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

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

\*Proposed rules were not required to be published prior to the Administrative Procedure Act of 1946. Rule preambles published only to a limited extent prior the 1970s.

**Historical Tables, Part B:  
Number of *Federal Register* Documents Published (1976-98)**

<u>Year</u>	<u>Final Rules</u>	<u>Proposed Rules</u>	<u>Other*</u>	<u>Total</u>
76	7,401	3,875	27,223	38,499
77	7,031	4,188	28,381	39,600
78	7,001	4,550	28,705	40,256
79	7,611	5,824	29,211	42,646
80	7,745	5,347	33,670	46,762
81	6,481	3,862	30,090	40,433
82	6,288	3,729	28,621	38,638
83	6,049	3,907	27,580	37,536
84	5,154	3,350	26,047	34,551
85	4,843	3,381	22,833	31,057
86	4,589	3,185	21,546	29,320
87	4,581	3,423	22,052	30,056
88	4,697	3,240	22,047	29,984
89	4,714	3,194	22,218	30,126
90	4,334	3,041	22,999	30,374
91	4,416	3,099	23,427	30,942
92	4,155	3,170	24,063	31,388
93	4,369	3,207	24,017	31,593
94	4,867	3,372	23,669	31,908
95	4,713	3,339	23,133	31,185
96	4,937	3,208	24,485	32,630
97	4,584	2,881	26,260	33,725
98	4,899	3,042	26,313	34,254

Source: Office of the Federal Register, National Archives and Records Administration.  
\*“Other” documents consist of presidential documents, agency notices, and corrections.

**Historical Tables, Part C:  
Unified Agenda Rules History (1983-98)**

**Total Number of Rules Under Consideration**

<u><b>1980s</b></u>			<u><b>1990s</b></u>		
<b>1983</b>	April	<b>2,863</b>	<b>1990</b>	April	<b>4,332</b>
	October	<b>4,032</b>		October	<b>4,470</b>
<b>1984</b>	April	<b>4,114</b>	<b>1991</b>	April	<b>4,675</b>
	October	<b>4,016</b>		October	<b>4,863</b>
<b>1985</b>	April	<b>4,265</b>	<b>1992</b>	April	<b>4,186</b>
	October	<b>4,131</b>		October	<b>4,909</b>
<b>1986</b>	April	<b>3,961</b>	<b>1993</b>	April	<b>4,933</b>
	October	<b>3,983</b>		October	<b>4,950</b>
<b>1987</b>	April	<b>4,038</b>	<b>1994</b>	April	<b>5,105</b>
	October	<b>4,005</b>		October	<b>5,119</b>
<b>1988</b>	April	<b>3,941</b>	<b>1995</b>	April	<b>5,133</b>
	October	<b>4,017</b>		October	<b>4,735</b>
<b>1989</b>	April	<b>4,003</b>	<b>1996</b>	April	<b>4,570</b>
	October	<b>4,187</b>		October	<b>4,680</b>
			<b>1997</b>	April	<b>4,417</b>
				October	<b>4,407</b>
			<b>1998</b>	April	<b>4,504</b>
				October	<b>4,560</b>

Source: *Unified Agenda of Federal Regulations*, various years; Regulatory Information Service Center.

**Historical Tables, Part D:**  
**Unified Agenda Rules History By Department and Agency**  
**(1996-98 and October 1993)**

	<b>Oct-98</b>	<b>Apr-98</b>	<b>Oct-97</b>	<b>Apr-97</b>	<b>Oct-96</b>	<b>Apr-96</b>	<b>Oct-93</b>
Dept. of Agriculture	384	390	398	399	450	376	460
Dept. of Commerce	344	298	283	274	289	290	283
Dept. of Defense	142	140	142	141	136	142	135
Dept. of Education	20	24	29	36	49	55	94
Dept. of Energy	63	73	75	74	81	72	85
Dept. of Health & Human Services	351	341	299	284	283	272	384
Dept. of Housing & Urban Development	102	113	98	80	98	110	221
Dept. of the Interior	337	330	321	327	386	356	307
Dept. of Justice	186	184	185	198	203	203	136
Dept. of Labor	149	146	132	113	119	107	129
Dept. of State	22	22	24	26	18	19	16
Dept. of Transportation	518	515	510	517	551	566	541
Dept. of Treasury	438	438	458	435	444	443	637
Dept. of Veterans' Affairs	118	118	108	103	145	101	152
Advisory Council on Historic Preservation	1	1	1	1	1	1	2
Agency for International Development	7	6	8	5	4	2	3
Architectural and Transportation Barriers Compliance Board	9	11	9	6	7	7	7
Commission on Civil Rights	1	1	1	1	1	2	1
Corporation for National & Community Service	6	4	2	1	1	1	0
Environmental Protection Agency	462	457	430	446	432	430	362
Federal Emergency Management Agency	25	36	22	22	23	18	36
General Services Administration	49	42	52	62	42	40	44
National Aeronautics & Space Agency	11	9	17	26	34	43	26
National Archives & Records Administration	19	17	17	14	17	18	16
Federal Council on the Arts and Humanities	0	0	0	0	0	1	0
Institute of Museum Services	1	2	2	1	0	1	0
National Endowment for the Arts	5	7	7	5	4	4	6
Equal Employment Opportunity Commission	10	10	10	7	9	9	7
National Endowment for the Humanities	6	7	7	6	5	5	6
National Science Foundation	5	7	7	7	3	3	6
Office of Federal Housing Enterprise Oversight	4	5	4	4	4	4	0
Office of Government Ethics	12	12	13	11	13	11	11
Office of Management & Budget	11	12	16	12	15	18	29
Office of Personnel Management	101	95	92	92	91	107	89
Panama Canal Commission	5	4	6	4	5	5	5
Peace Corps	5	5	5	6	6	6	4
Pension Benefit Guaranty Corporation	12	10	10	10	11	17	20
Railroad Retirement Board	17	20	20	20	21	18	18
Selective Service System	1	1	1	1	1	1	1
Small Business Administration	25	23	15	16	18	53	77
Social Security Administration	70	62	72	71	73	67	0
Tennessee Valley Authority	1	1	0	0	1	1	6
U.S. Information Agency	1	4	4	4	3	2	4
Federal Acquisition Regulation	42	55	49	73	102	94	65
Commodity Futures Trading Commission	12	8	9	11	13	10	21
Consumer Product Safety Commission	15	17	14	14	15	17	19
Farm Credit Administration	15	16	17	18	21	22	28
Farm Credit System Insurance Corporation	3	3	4	4	4	4	0
Federal Communications Commission	121	108	98	96	104	90	57
Federal Energy Regulatory Commission	12	10	10	10	14	15	29
Federal Housing Finance Board	17	15	17	20	18	20	22
Federal Maritime Commission	6	3	3	8	7	7	11
Federal Reserve System	30	33	36	37	40	34	38
Federal Trade Commission	16	18	19	21	17	26	12
National Credit Union Administration	14	19	14	14	12	19	21
Federal Deposit Insurance Corporation	26	25	31	30	34	22	35
National Indian Gaming Commission	17	18	16	13	6	6	3
National Labor Relations Board	0	3	3	5	5	7	0
Nuclear Regulatory Commission	63	59	62	59	55	57	93
OSC	1	0	0	0	0	0	0
Overseas Private Investment Corporation	2	1	0	0	0	0	0
Securities and Exchange Commission	83	75	79	92	102	89	86
Surface Transportation Board	8	14	13	23	13	21	0
Federal Mediation and Conciliation Service	1	1	1	1	0	0	0
Thrift Depositor Protection Board	0	0	0	0	0	3	4
Resolution Trust Corporation	0	0	0	0	0	0	8
Interstate Commerce Commission	0	0	0	0	0	0	20
ACTION	0	0	0	0	0	0	8
Merit Systems Protection Board	0	0	0	0	0	0	2
Pennsylvania Ave. Development Corp.	0	0	0	0	0	0	2
<b>TOTAL</b>	<b>4,560</b>	<b>4,504</b>	<b>4,407</b>	<b>4,417</b>	<b>4,679</b>	<b>4,570</b>	<b>4,950</b>

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

**Historical Tables, Part E:  
Agency Major Rules by Category (1996-98)**

<b>Apr-98</b>	<b><u>Prerule</u></b>	<b><u>Proposed</u></b>	<b><u>Final</u></b>	<b><u>Long-term</u></b>	<b><u>Completed</u></b>	<b><u>TOTAL</u></b>
Dept. of Agriculture	0	5	5	2	2	14
Department of Commerce	0	0	0	1	1	2
Department of Defense	0	0	1	0	0	1
Dept. of Energy	2	2	5	1	0	10
Dept. of Health & Human Services	0	3	3	1	1	8
Dept. of Housing & Urban Development	0	0	0	1	0	1
Dept. of the Interior	0	0	0	1	0	1
Dept. of Labor	0	5	10	1	0	16
Dept. of Transportation	0	1	1	2	2	6
ATBCB	0	1	0	1	0	2
Environmental Protection Agency	1	13	5	10	3	32
Small Business Administration	5	0	0	1	1	7
Social Security Administration	0	0	0	1	0	1
FAR	0	0	3	0	0	3
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	4	0	1	5
Federal Reserve System	0	0	0	0	1	1
Nuclear Regulatory Commission	0	0	0	1	0	1
<b>TOTAL</b>	<b>8</b>	<b>31</b>	<b>37</b>	<b>24</b>	<b>12</b>	<b>112</b>

<b>Oct-97</b>	<b><u>Prerule</u></b>	<b><u>Proposed</u></b>	<b><u>Final</u></b>	<b><u>Long-term</u></b>	<b><u>Completed</u></b>	<b><u>TOTAL</u></b>
Dept. of Agriculture	0	5	4	3	3	15
Dept. of Commerce	0	0	1	0	0	1
Dept. of Energy	1	2	2	5	3	13
Dept. of Health & Human Services	0	1	1	0	3	5
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	0	0	1	0	1
Dept. of Justice	0	1	0	0	0	1
Dept. of Labor	2	10	1	3	0	16
Dept. of Transportation	0	5	3	0	0	8
Environmental Protection Agency	1	9	11	12	5	38
Small Business Administration	0	2	1	0	2	5
Social Security Administration	0	0	1	0	0	1
Federal Acquisition Regulation	0	0	0	2	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	0	0	7	2	9
Federal Housing Finance Board	0	0	0	0	3	3
Federal Reserve System	0	0	1	0	0	1
Nuclear Regulatory Commission	0	1	0	0	1	2
<b>TOTAL</b>	<b>4</b>	<b>37</b>	<b>29</b>	<b>33</b>	<b>22</b>	<b>125</b>

<b>Apr-97</b>	<u>Prerule</u>	<u>Proposed</u>	<u>Final</u>	<u>Long-term</u>	<u>Completed</u>	<u>TOTAL</u>
Dept. of Agriculture	0	5	8	1	3	17
Dept. of Energy	1	2	3	7	0	13
Dept. of Health & Human Services	0	0	2	1	1	4
Dept. of Housing & Urban Development	0	1	2	0	1	4
Dept. of the Interior	0	1	0	0	0	1
Dept. of Justice	0	1	0	0	1	2
Dept. of Labor	1	7	1	2	2	13
Dept. of Transportation	1	4	1	1	0	7
Dept. of Veterans's Affairs	0	0	0	0	1	1
Environmental Protection Agency	1	11	13	12	6	43
Federal Emergency Management Agency	0	0	0	0	1	1
Small Business Administration	0	3	2	0	0	5
Social Security Administration	0	0	1	0	1	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Communications Commission	0	1	0	7	3	11
Federal Housing Finance Board	0	1	2	0	0	3
Federal Reserve System	0	0	1	0	2	3
Nuclear Regulatory Commission	0	0	1	0	0	1
<b>TOTAL</b>	<b>4</b>	<b>38</b>	<b>37</b>	<b>31</b>	<b>22</b>	<b>132</b>

<b>Oct-96</b>	<u>Prerule</u>	<u>Proposed</u>	<u>Final</u>	<u>Long-term</u>	<u>Completed</u>	<u>TOTAL</u>
Dept. of Agriculture	0	5	7	3	10	25
Dept. of Commerce	0	0	0	0	1	1
Dept. of Energy	1	2	3	7	0	13
Dept. of Health & Human Services	0	2	2	0	2	6
Dept. of Housing & Urban Development	0	0	3	0	0	3
Dept. of the Interior	0	1	0	0	1	2
Dept. of Labor	1	8	1	1	0	11
Dept. of Transportation	2	2	1	0	1	6
Dept. of Veterans' Affairs	0	1	0	0	0	1
Environmental Protection Agency	3	13	14	10	6	46
Federal Emergency Management Agency	0	0	0	1	0	1
Small Business Administration	0	4	0	0	0	4
Social Security Administration	0	0	2	0	0	2
Consumer Product Safety Commission	0	1	0	0	0	1
Federal Acquisition Regulation	0	0	0	0	1	1
Federal Communications Commission	0	0	0	8	2	10
Federal Energy Regulatory Commission	0	0	0	0	1	1
Federal Housing Finance Board	0	2	0	0	0	2
Federal Reserve System	0	0	1	0	1	2
Nuclear Regulatory Commission	0	1	0	0	0	1
<b>TOTAL</b>	<b>7</b>	<b>42</b>	<b>34</b>	<b>30</b>	<b>26</b>	<b>139</b>

<b>Apr-96</b>	<b><u>Prerule</u></b>	<b><u>Proposed</u></b>	<b><u>Final</u></b>	<b><u>Long-term</u></b>	<b><u>Completed</u></b>	<b><u>Total</u></b>
Department of Agriculture	0	1	7	8	4	<b>20</b>
Department of Commerce	0	0	0	0	1	<b>1</b>
Department of Energy	1	0	0	7	0	<b>8</b>
Health and Human Services	0	2	1	0	1	<b>4</b>
Housing and Urban Development	0	0	2	0	0	<b>2</b>
Department of the Interior	0	1	0	0	0	<b>1</b>
Department of Labor	0	7	0	3	0	<b>10</b>
Department of Transportation	1	0	5	0	0	<b>6</b>
Veterans' Affairs	0	1	0	0	0	<b>1</b>
Environmental Protection Agency	1	14	19	9	3	<b>46</b>
Small Business Administration	0	0	0	0	5	<b>5</b>
Social Security Administration	0	0	1	0	0	<b>1</b>
Federal Acquisition Regulation	0	0	1	0	0	<b>1</b>
Consumer Product Safety Commission	0	1	0	0	0	<b>1</b>
Federal Communications Commission	0	1	0	4	0	<b>5</b>
Federal Energy Regulatory Commission	0	0	0	1	0	<b>1</b>
Federal Housing Finance Board	0	1	0	1	0	<b>2</b>
Nuclear Regulatory Commission	0	0	0	0	1	<b>1</b>
<b>TOTAL</b>	<b>3</b>	<b>29</b>	<b>36</b>	<b>33</b>	<b>15</b>	<b>116</b>

Source: *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, various



## Historical Tables, Part F: Rule Impacting Small Business (1993-98)

	1993		1994		1995		1996		1997		Oct-98		1998 Total
	April	October	April	October	April	October	April	October	April	October	RFA*	RFA*	
											Required	Not Required	
Dept. of Agriculture	33	62	62	54	49	54	53	56	59	58	46	17	63
Dept. of Commerce	38	33	39	46	38	43	37	46	37	29	47	5	52
Dept. of Defense	24	20	15	22	21	27	25	22	19	15	2	19	21
Dept. of Education	3	3	3	0	0	0	1	1	1	1	0	0	0
Dept. of Energy	2	9	4	4	1	2	2	2	2	2	0	0	0
Dept. of Health & Human Services	75	73	64	63	37	59	76	89	99	100	52	36	88
Dept. of Housing & Urban Development	43	34	36	33	19	17	12	9	6	7	1	0	1
Dept. of the Interior	6	9	23	26	17	21	20	17	15	28	28	1	29
Dept. of Justice	15	16	17	17	21	23	26	27	25	26	9	1	10
Dept. of Labor	32	30	36	40	32	33	34	51	45	39	41	0	41
Dept. of State	1	1	1	1	0	0	0	2	2	1	0	0	0
Dept. of Transportation	30	30	25	14	16	24	37	31	36	44	30	178	208
Dept. of Treasury	78	70	74	69	49	59	57	52	57	50	59	1	60
Dept. of Veterans' Affairs	3	3	3	3	3	3	3	3	7	7	6	0	6
Agency for International Development	0	0	0	0	1	1	0	0	0	0	0	0	0
Architectural and Transportation Barriers Compliance Board	0	0	0	0	0	0	0	0	0	0	3	0	3
Corporation for National & Community Service	0	0	0	1	0	0	0	0	0	0	0	0	0
Environmental Protection Agency	85	85	111	123	117	140	137	152	158	163	23	155	178
Federal Emergency Management Agency	2	1	1	1	1	3	3	1	0	0	0	0	0
General Services Administration	7	6	8	7	5	5	4	6	5	3	2	0	2
National Aeronautics & Space Agency	1	1	1	1	1	1	1	1	0	0	1	0	1
National Archives & Records Administration	1	1	1	1	1	1	1	1	1	1	1	0	1
Equal Employment Opportunity Commission	0	0	0	0	0	0	0	0	0	1	2	0	2
National Endowment for the Humanities	0	0	0	0	0	0	0	0	0	1	0	0	0
National Science Foundation	0	0	0	0	1	0	0	0	0	0	0	0	0
Office of Management & Budget	7	5	4	3	2	4	3	2	1	1	1	0	1
Railroad Retirement Board	1	1	2	1	1	2	2	1	1	1	0	0	0
Small Business Administration	54	60	47	44	47	62	49	17	15	13	20	0	20
Social Security Administration	0	0	0	0	2	4	2	1	1	0	0	0	0
U.S. Information Agency	1	1	0	0	0	0	0	0	0	0	0	0	0
Federal Acquisition Regulation	7	7	9	9	17	16	15	20	21	15	9	2	11
Commodity Futures Trading Commission	1	1	0	0	0	0	0	0	0	0	1	0	1
Consumer Product Safety Commission	3	3	2	2	2	1	1	1	1	0	0	0	0
Federal Communications Commission	54	47	45	47	48	52	65	75	68	70	80	2	82
Federal Energy Regulatory Commission	0	0	0	0	0	1	0	0	0	0	0	0	0
Federal Housing Finance Board	1	1	1	1	1	1	1	0	0	0	0	1	1
Federal Maritime Commission	0	0	0	0	0	0	0	0	0	0	0	5	5
Federal Reserve System	14	10	12	9	8	6	4	4	3	2	2	3	5
Federal Trade Commission	2	2	3	2	5	5	9	7	12	11	1	9	10
Interstate Commerce Commission	0	1	1	0	1	0	0	0	0	0	0	0	0
National Credit Union Administration	2	2	1	1	0	2	2	1	1	1	0	0	0
Nuclear Regulatory Commission	11	9	7	8	8	5	5	8	9	9	8	0	8
Resolution Trust Corporation	1	0	1	1	1	0	0	0	0	0	0	0	0
Securities and Exchange Commission	34	29	35	32	35	34	34	48	41	34	22	5	27
<b>TOTAL</b>	<b>672</b>	<b>666</b>	<b>694</b>	<b>686</b>	<b>608</b>	<b>711</b>	<b>721</b>	<b>754</b>	<b>748</b>	<b>733</b>	<b>497</b>	<b>440</b>	<b>937</b>

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

\*Regulatory Flexibility Analysis

**Historical Tables, Part G:  
Federal Rule Impacting Lower Level Government (1993-98)**

	Oct-98		Oct-97		Oct-96		Oct-95		Oct-94		Oct-93	
	State	Local	State	Local	State	Local	State	Local	State	Local	State	Local
Dept. of Agriculture	65	54	70	58	84	72	74	61	83	64	85	68
Dept. of Commerce	18	9	16	9	15	8	12	6	24	17	18	14
Dept. of Defense	4	3	4	3	4	2	8	6	6	6	2	2
Dept. of Education	0	0	3	3	3	3	8	5	19	9	26	13
Dept. of Energy	15	14	18	18	18	16	19	16	18	12	14	6
Dept. of Health & Human Services	88	23	82	30	47	24	62	20	93	34	107	36
Dept. of Housing & Urban Development	25	28	24	29	25	29	26	33	66	83	68	86
Dept. of Interior	61	20	78	11	98	9	108	8	112	15	46	8
Dept. of Justice	28	22	26	20	32	26	26	22	22	18	16	14
Dept. of Labor	32	24	29	15	33	17	22	11	28	14	29	14
Dept. of State	1	1	1	1	0	0	2	2	2	2	3	3
Dept. of Transportation	47	29	34	22	42	25	38	26	24	17	40	28
Dept. of Treasury	16	12	22	16	12	9	13	11	28	23	29	27
Dept. of Veterans's Affairs	7	2	5	0	2	0	2	0	2	1	2	1
Advisory Council on Historic Preservation	1	0	1	0	0	0	0	0	0	0	0	0
Agency for International Development	0	0	0	0	0	0	0	0	1	1	1	1
Architectural and Transportation Barriers Compliance Board	2	2	1	1	1	1	1	1	1	1	1	1
Environmental Protection Agency	250	147	228	165	209	148	197	140	190	157	145	110
Federal Emergency Management Agency	5	3	1	3	3	4	3	4	6	7	16	15
General Services Administration	5	2	5	4	3	2	5	4	1	4	4	2
National Aeronautics & Space Agency	2	2	1	2	5	3	5	3	5	2	3	1
National Archives & Records Administration	2	2	2	2	0	0	1	1	4	2	3	3
National Endowment for the Arts	1	1	2	2	0	0	0	0	2	2	2	2
Equal Employment Opportunity Commission	4	4	2	2	1	2	0	2	0	0	1	1
Natioanal Endowment for the Humanities	0	0	1	0	0	0	0	0	2	2	2	2
National Science Foundation	0	0	1	1	0	0	0	0	1	1	1	1
Office of Management & Budget	1	2	4	4	2	2	2	2	5	4	7	6
Peace Corps	0	0	0	0	1	0	1	0	2	1	2	1
Railroad Retirement Board	1	0	1	0	1	0	1	0	2	1	2	0
Small Business Administration	2	0	1	0	1	0	1	1	4	4	4	4
Social Security Administration	9	3	3	0	2	0	3	1	0	0	0	0
Tennessee Valley Authority	0	0	0	0	0	0	0	0	1	1	1	1
U.S. Information Agency	0	0	2	2	2	2	2	1	2	2	1	1
Federal Communications Commission	30	21	21	17	25	21	16	14	10	10	6	7
Federal Energy Regulatory Commission	0	0	0	0	0	0	4	4	3	3	2	2
Federal Reserve System	1	0	3	1	0	0	0	0	0	3	1	1
Federal Trade Commission	2	0	2	0	2	0	3	1	2	1	1	0
National Credit Union Administration	0	0	0	0	0	0	2	0	4	0	3	0
National Indian Gaming Commission	1	0	2	0	0	0	0	0	0	0	0	0
Nuclear Regulatory Commission	1	1	1	1	1	1	1	1	2	2	1	1
Securities and Exchange Commission	1	0	1	0	0	0	1	1	3	2	1	1
Resolution Trust Corporation	0	0	0	0	0	0	0	0	0	1	1	1
FMCS	0	0	0	0	0	0	1	1	1	1	0	0
Consumer Product Safety Commission	0	0	0	0	0	0	0	0	1	1	0	0
CNCS	1	1	0	0	0	0	1	1	2	2	0	0
ACTION	0	0	0	0	0	0	0	0	0	0	5	5
<b>State and Local Subtotals</b>	<b>729</b>	<b>432</b>	<b>698</b>	<b>442</b>	<b>674</b>	<b>426</b>	<b>663</b>	<b>443</b>	<b>784</b>	<b>533</b>	<b>702</b>	<b>490</b>
<b>Grand Totals</b>	<b>1161</b>		<b>1140</b>		<b>1100</b>		<b>1106</b>		<b>1317</b>		<b>1192</b>	

Source: Compiled by CEI from the *Unified Agenda of Federal Regulations*, Regulatory Information Service Center, 1993-98.