

Page Counts and Numbers of Rules in the *Federal Register*

The *Federal Register* is the daily repository of all proposed and final federal rules and regulations.²³¹ Although its number of pages is often cited as a measure of regulation's scope, there are shortcomings with relying on page counts as a metric. A short rule may be costly, whereas a lengthy one may be relatively cheap. The *Federal Register* also contains many administrative notices, corrections, rules relating to the governance of federal programs and budgets, presidential statements, and other material. These all contribute bulk and bear some relation to the flow of regulation, but are not strictly regulations. Blank pages, skips, and corrections also affect page counts. In previous decades, blank pages numbered in the thousands owing to the Government Publishing Office's imperfect estimation of the number of pages that agencies would require for publishing rules. These days, it is typically a few hundred pages per year.

Although the *Federal Register* has always been the primary document for cataloging regulations, it has recently under Trump chronicled their partial reduction, although a look at the daily *Federal Register* may not have given that impression. Reducing regulations requires writing rules too, which can continue to expand the *Federal Register*. Shortcomings notwithstanding, it is worthwhile to track the *Federal Register's* page counts, particularly because under the Biden administration, offsetting deregulatory rules are no longer part of the bulk.

Federal Register Pages Back above 80,000

Joe Biden has restored the 80,000-page *Federal Register* as the norm. On Decem-

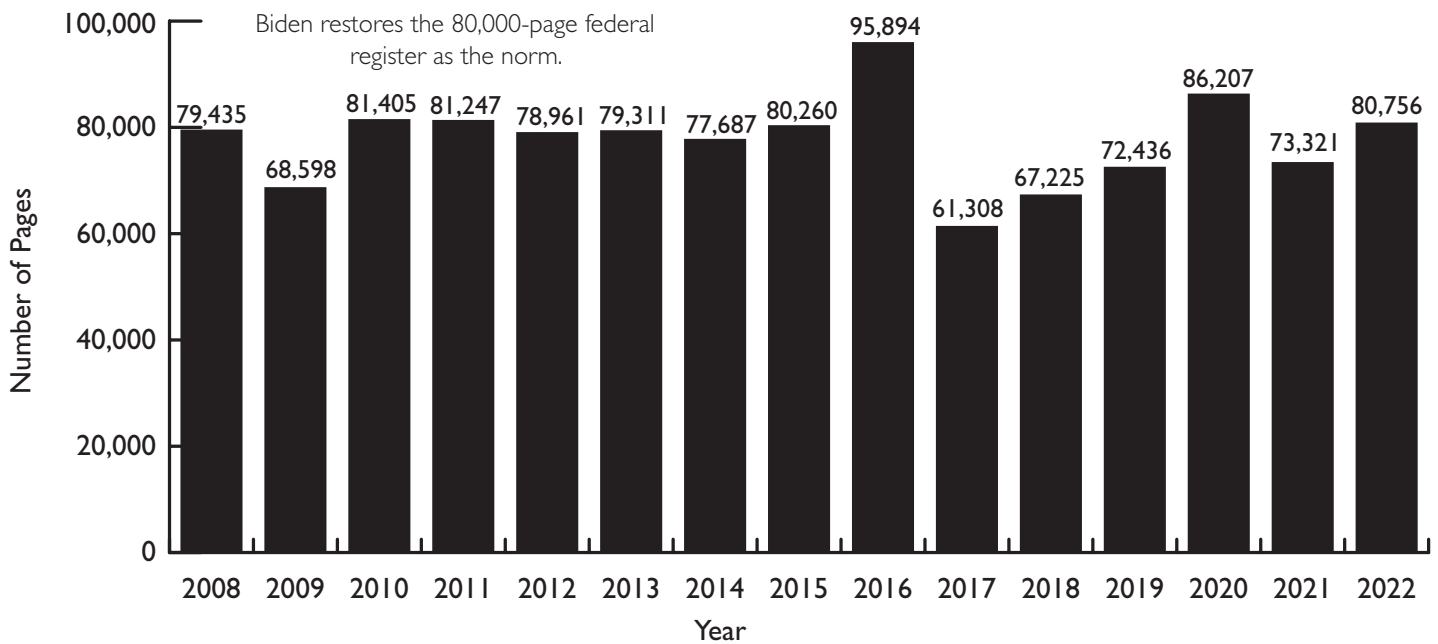
ber 30, 2022, the *Federal Register* closed out at 80,756 pages (up 10 percent from 73,321 at the end of Biden's first year), a figure that will adjust downward slightly by a few hundred pages in the final National Archives reckoning and be taken into account later.²³²

One can compare Biden's tally with two extremes, high and low. At the end of 2016, Obama's final calendar year, the number of *Federal Register* pages stood at 95,894, which at the time was the highest level in the history of the *Federal Register*. Conversely, the first calendar year of the Trump administration finished with 61,308 pages in the *Federal Register* (see Figure 9). The last time the annual page count had been that low was in 1993, at 61,166 pages, during the Clinton administration. By the time Trump was inaugurated on January 20, 2017, the Obama administration had already added 7,630 pages to the *Federal Register*, putting Trump's "net" page count at 53,678.²³³

Trump's page count rose after 2017, however. His 2020 *Federal Register* tally of 86,207 pages stood 41 percent above his first-year count, representing the second-highest count of all time (10 percent below Obama's record). Some of that bulk was attributable to Trump's one-rule-in, two-rules-out program and rewrites of major rules, illustrating the shortcomings of using page numbers as a metric for regulation. To eliminate a rule, agencies need to overwrite it with another rule, which adds pages even as it subtracts regulatory burdens.

Of the 10 all-time high *Federal Register* page counts, five occurred during the Obama administration. While still 15 percent below

Figure 9. Number of *Federal Register* Pages, 2008–2022



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

Obama’s 2016 all-time record, Biden’s preliminary 2022 count of 80,756 is the fifth-highest ever with at least two years to go. Figure 9 shows Biden to be just shy of the prior all-time record years of 2010 and 2011, at 81,405 and 81,247, respectively.

A drop in page counts between administrations is typical, as new presidents freeze the pipeline temporarily and launch their own priorities. Figure 9 shows a 15 percent drop between Trump and Biden, which was even more significant than it appears here, because 6,242 pages between January 1, 2021, and Biden’s inauguration on January 20 belonged to Trump (making Biden’s decrease 22 percent). Trump’s 2017 drop was particularly notable at 36 percent below the Obama record. The last time a drop in *Federal Register* page counts of that magnitude happened was when Ronald Reagan reduced the count from Jimmy Carter’s 73,258 in 1980 to 44,812 by 1986, but that 28,446-page drop took five years to materialize.²³⁴ (For a history of *Federal Register* page totals since 1936, see Appendix: Historical Tables, Part A.)

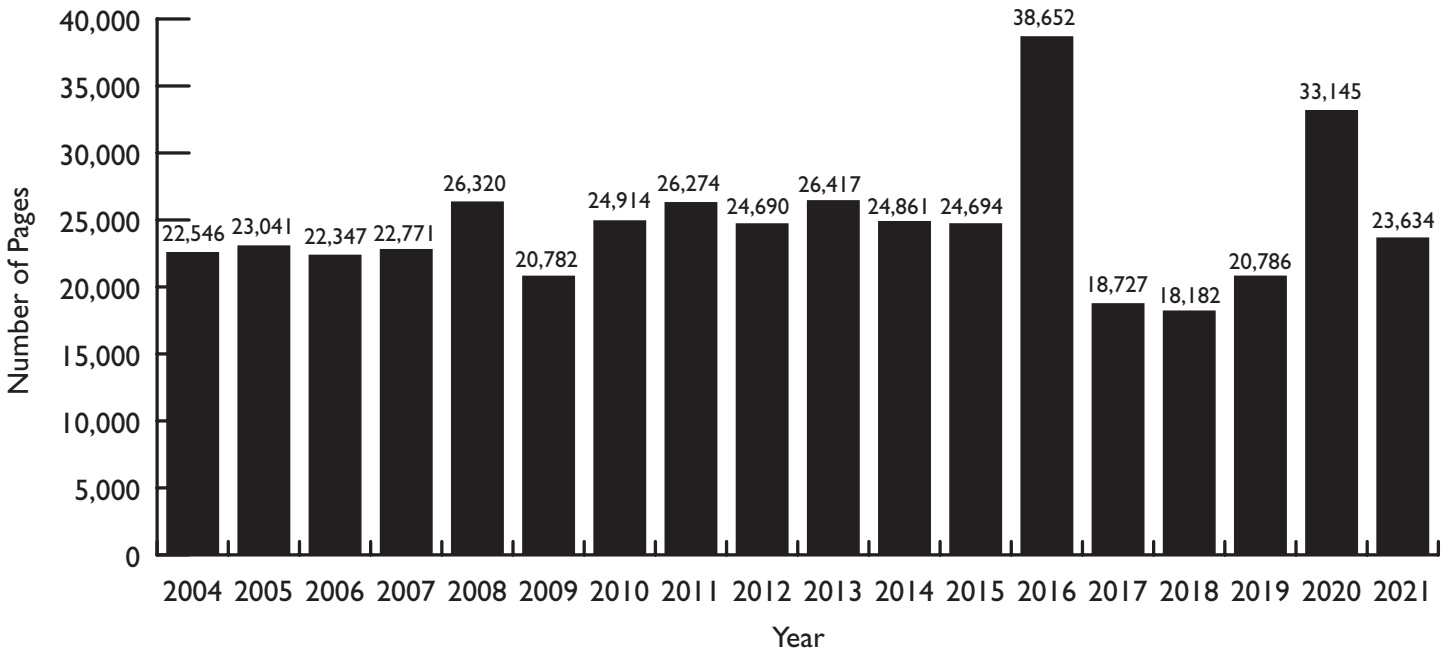
***Federal Register* Pages Devoted to Final Rules**

Isolating the pages devoted to *final* rules might be more informative than gross page counts, because doing so omits pages dedicated to proposed rules, agency notices, corrections, and presidential documents (although those can also have regulatory effects).

The number of pages devoted to final rules from Biden’s second year is not available as of this writing, but his first year ended with 23,634 pages devoted to final rules, nearly a 29 percent drop from Trump (see Figure 10).

Trump delivered the extremes here, with his 18,182 pages devoted to final rules in 2018 marking the lowest count since 1992. In contrast, Trump’s final year set the second-highest page count of all time at 33,145. Some rules are bulkier than others with regard to page counts. Trump’s streamlining-oriented Safer Affordable Fuel-Efficient, or SAFE, Vehicles Rule for Model Years 2021–2026, for example

Figure 10. *Federal Register* Pages Devoted to Final Rules, 2004–2021



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

(targeted by Biden), clocked in at 1,105 pages.²³⁵ As will be seen, Biden’s 2021 rule count was the highest since 1999.

The 59 percent jump by Trump between 2019 and 2020 and the 56 percent surge between 2015 to 2016 under Obama stand out in Figure 10. Obama’s 2016 peak shattered 2013’s then record high of 26,417 by 46 percent. The bursts under both Obama and Trump are consistent with the longstanding bipartisan midnight rule tradition, which in Trump’s case may have been partially de-regulatory. The drop of 51 percent between Obama and Trump compares with the 29 percent drop between Trump and Biden.

Although more pertinent measures than page counts of final rules can account for actual effects or burdens, for page counts to drop so steeply between administrations, or to jump at transition time, is noteworthy.

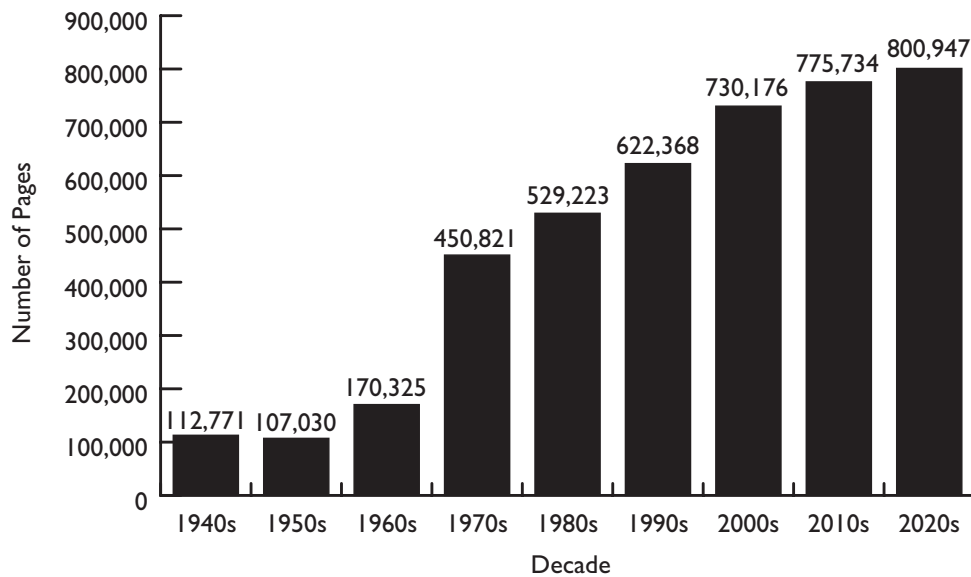
The pages of proposed rules in the regulatory pipeline are also relevant to future regulatory costs. These may or may not be a leading indicator heralding growth or decline in the

number of future final rules. Although not depicted here, the number of pages devoted to proposed rules peaked at 23,193 in 2011 under Obama, whose page count of proposed rules was 21,457 in 2016. Under Trump, *Federal Register* pages devoted to proposed rules in 2017 cratered to 10,892—half the level of Obama’s concluding years and the lowest since 1981. These rose to 17,246 in 2018. In both of Trump’s final two years, the number of *Federal Register* pages devoted to proposed rules stood above 19,000. For comparison, all Obama years, apart from the first, exceeded 20,000.

Federal Register Pages Published by Decade

Still another way of looking at *Federal Register* big-picture trends is by pages per decade (see Figure 11). Nearly a million pages are likely to be published in the 2020s. Despite Trump-era rule reductions starting off the decade, a hefty jump over the 2010s is apparent. The second-to-last bar of Figure 11 shows that the just-ended decade of

Figure 11. *Federal Register* Pages per Decade
800,947 Pages Currently Published in the 2020s



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

Trump's final year and Biden's first two average 80,095 pages, anticipating 800,947 pages in the "Regulatory Roaring 20s."

the 2010s saw 775,734 new *Federal Register* pages, for an average of 77,573 pages added per year. That's a jump over the average of 73,018 pages per year during the 2000s.

Trump's final year and Biden's first two years of *Federal Register* pages average 80,095 pages per year for the current decade. Figure 11 extrapolates that number for the rest of the 2020s and shows an expected pace of 800,947 pages in the current decade. The new pro-regulatory environment reflected in Biden's "Modernizing Regulatory Review" directive,²³⁶ climate crisis campaign,²³⁷ and Inflation Reduction Act-related spending and regulation may well push the decadal point to 1 million pages.

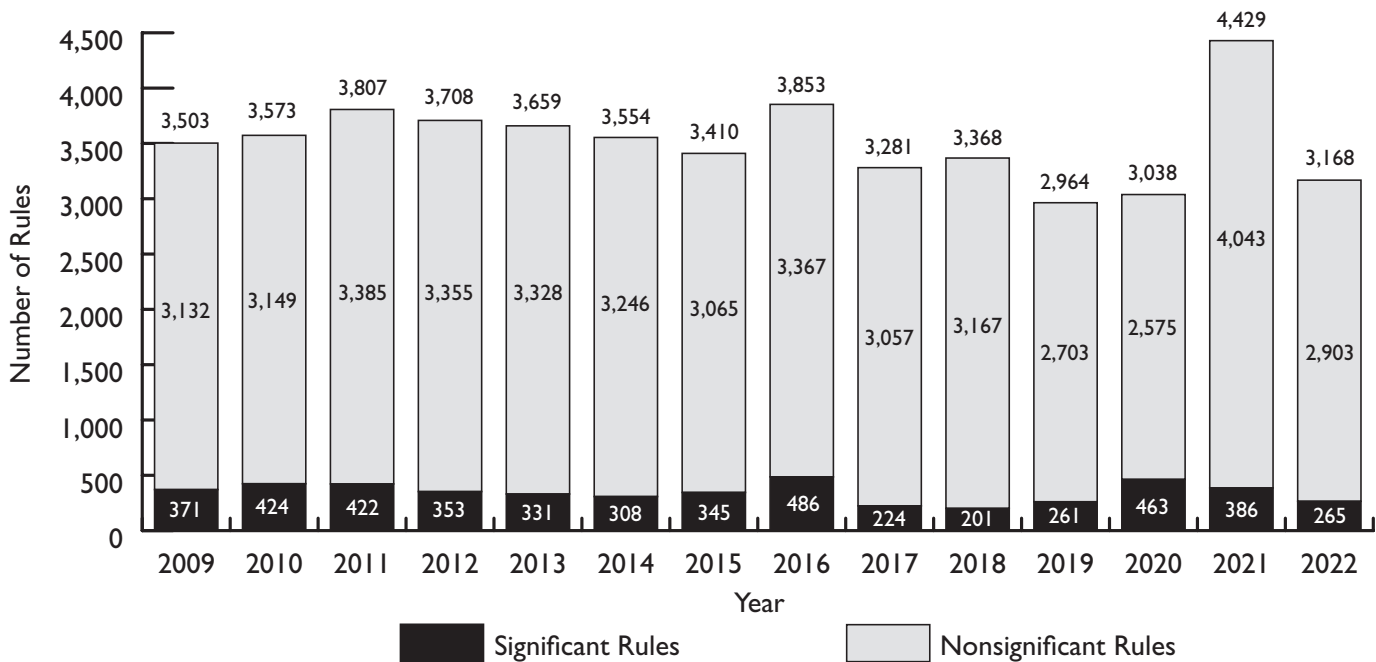
Number of Final (and Significant Final) Rules in the *Federal Register*

Although rule counts are an important gauge of regulation, and surely superior to page counts, even they are becoming less definitive as guidance documents, and subregulatory

pen-and-phone decrees substitute for formal rulemaking. The 80,756 pages in the *Federal Register* in 2022 yielded 3,168 final rules, of which 265 were deemed significant. One of the lowest levels ever, even with Biden at the helm (see Figure 12), it marks a 13 percent decline from the 4,429 rules Biden apparently produced in 2021. That tally, if it holds, was the highest since 1999 (compilations at the National Archives sometimes fluctuate, and it would not be a surprise to see this figure change after additional reconciliations²³⁸).

For some context, despite Trump's near-record 2020 *Federal Register*, his administration managed to reduce the annual number of rulemakings in each of its four years to the lowest levels recorded since modern record-keeping began in the 1970s, even with deregulatory regulations in the gross totals. Even with Trump's record 86,207 *Federal Register* page count upon exit, his 3,038-rule tally was lower than every other president since the 1970s. Biden's newest count is also among the record low, but it is seemingly offset by his 2021 high, which is itself offset by a couple hundred final rules (some de-

Figure 12. Number of Final Rules in the *Federal Register*, 2009–2022



Source: Compiled by author using the National Archives. Current-year total final rule tally and all years' significant rule tallies from [FederalRegister.gov](https://www.federalregister.gov) online database, which fluctuates. Prior years' total final rules come from National Archives compilations maintained under "Federal Register Statistics" at <https://www.federalregister.gov/reader-aids/understanding-the-federal-register>.

Trump's rules in 2019 made for the lowest rule count ever seen, and the only count below 3,000 since recordkeeping began in the 1970s.

regulatory) from Trump between New Year's Day and Biden's 2021 inauguration.

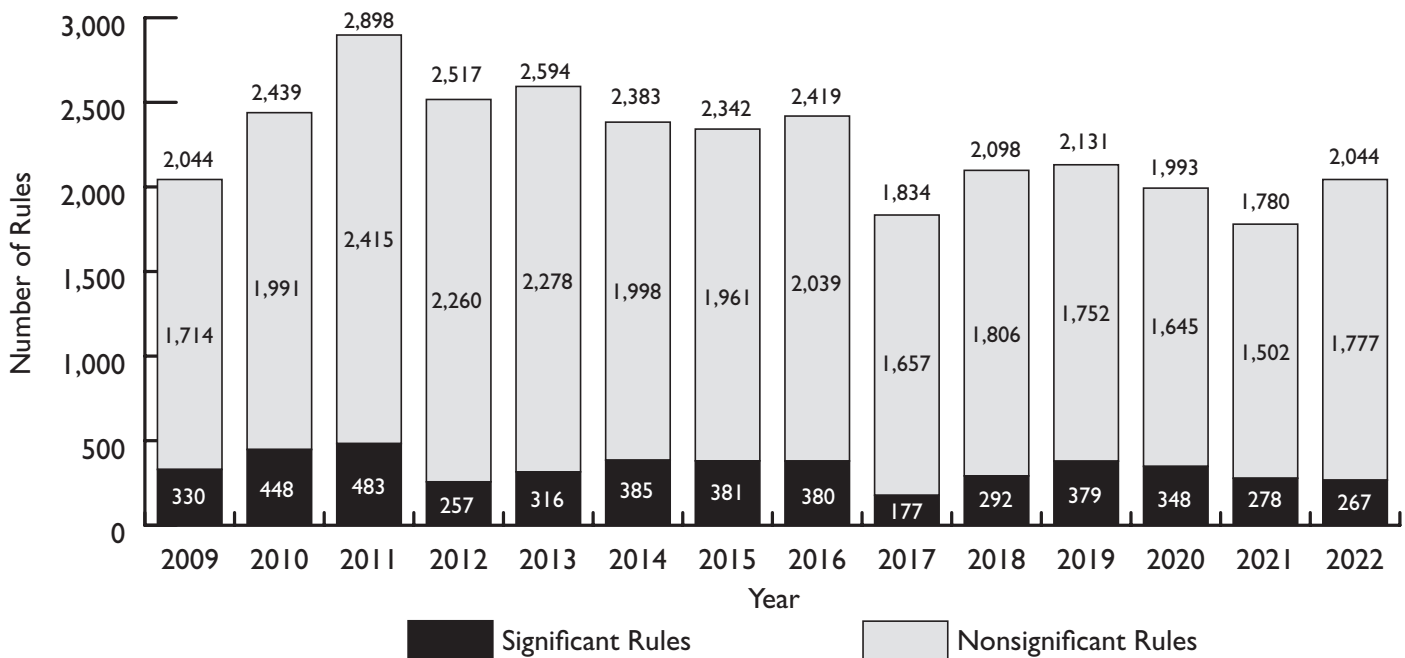
Trump's deregulatory intent was a defining element of his administration's first year or so, and the lower counts stand out in Figure 12. Under Trump, final rules dipped to 3,281 in 2017, the then lowest-ever total. Obama had issued 207 rules in January 2017 before Trump's inauguration, leaving Trump with 3,074 net rules in his first year.²³⁹ In 2016, the final full year of the Obama administration, the number of final rules published in the *Federal Register* reached 3,853. That was the Obama administration's highest total and the highest level since 2005. Both of those totals were exceeded by the Biden 2021 total, but outstrip his apparent 2022 low tide. Trump's 2,964 rules in 2019 made for the lowest rule count ever seen, and the only count below 3,000 since recordkeeping began in the 1970s. Midnight rule flurry and fat *Federal Register* notwithstanding, even Trump's final tally was exceeded by all other presidents as well as successor Biden.

Trump's slowed pace of traditional rulemaking was offset, however, by his affinity for antitrust, trade, tech policy, family leave, and other pursuits that, as is the case with federal consolidations, may not appear as rules in the *Federal Register* at all and are not readily tracked in OMB reviews.

Final rule counts stand well below the levels that prevailed throughout the 1990s, when the annual average was 4,613; final rule counts were even greater in the decades prior. The average for the 2000–2009 period was 3,984. Despite the big 2021 jump, a trend toward fewer but costlier larger rules may be under way,²⁴⁰ perhaps supplemented by subregulatory guidance. Output by department and agency is a useful metric for overseers to monitor closely.

Economically significant regulations are those deemed to impose \$100 million in annual effects. These rules will be addressed in the upcoming discussion of the "The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions."²⁴¹ A larger

Figure 13. Number of Proposed Rules in the *Federal Register*, 2009–2022



Source: Compiled by author using *Federal Register*.

subset of the total rules just discussed are deemed significant under Executive Order 12866 and are also depicted in Figure 12.

Among Biden’s 3,168 rules, 265 were significant, compared with 386 the year before. Significant regulations are likely understated, because many major interventions and regulatory pursuits get officially deemed net-beneficial rather than costly, which can turn out to be very far from the truth. As it stands, the highest count of significant rules over the past two decades was in 2016 under Obama. In that year, of 3,853 final rules, 486 were deemed significant (Figure 12). Although the appearance of several hundred significant final rules each year has been common, that changed in the first three years of the Trump administration.

Pre-inauguration overlap weeks aside, Obama’s eight years brought 3,040 significant rules, for an annual average of 380, which exceeds Biden’s two-year average so far of 326. Trump, in contrast, issued a total of 1,149 significant rules, which amounts to an

annual average of 287, of which many were deregulatory. Two-thirds of them occurred in the final midnight rush year.²⁴²

Although the Trump administration’s emphasis was often on significant rules and their removal, such rules were still implemented during his tenure. Yet a lower base level of rulemaking prevailed in those years that will merit ongoing comparison to future administrations.²⁴³

Number of Proposed (and Significant Proposed) Rules in the *Federal Register*

Stopping or slowing incomplete proposed rules in the pipeline is easily done, however. All recent presidents have done so, which is easier than eliminating existing rules.²⁴⁴ Agencies can also opt to use guidance instead of rules to influence policy. With those caveats, Figure 13 surveys proposed rules for recent years.

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The year 2022 concluded with 2,044 proposed rules in the *Federal Register*, 15 percent more than Biden's 2021 count of 1,780. Although Biden's final rule count dropped, his proposed rule count increased, which will increase future totals. Biden's proposed rule count has not reattained pre-Trump levels, and so it bears watching in 2023 and 2024. Of those 2,044 proposed rules, 267 were deemed significant, level with 2021.²⁴⁵ Significant proposed rules in the Trump years made up a substantial number of the total proposed, the heights of which were sometimes comparable to those of earlier administrations. But these did not materialize as higher numbers of final regulatory rulings for Trump.²⁴⁶

The drop at presidential transition years is again notable. In Obama's final year of 2016, 2,419 proposed rules appeared in the *Federal Register* (Figure 13). In Trump's first year, that count fell to 1,834, including just over 150 issued by Obama during the first three weeks of 2017. The proposed rule pipeline tally in Trump's first year was the lowest since recordkeeping began in the 1970s, until it was bested by the Biden first-year drop, freeze, and modernization regrouping that reduced the count to 1,780.

Trump's midnight rule activity in 2020 notwithstanding, his proposed rules, which averaged 2,014 annually, never attained the heights of the earlier Obama and George W. Bush years depicted in Figure 13. Indeed, in previous decades, far greater numbers of proposed rules filled the pipeline. The average in the 1990s was 3,164 per year. The average in the 2000s was 2,662 annually (see Appendix: Historical Tables, Part B).

Actions at the prerule stage rather than the proposed stage may be substantial as well.

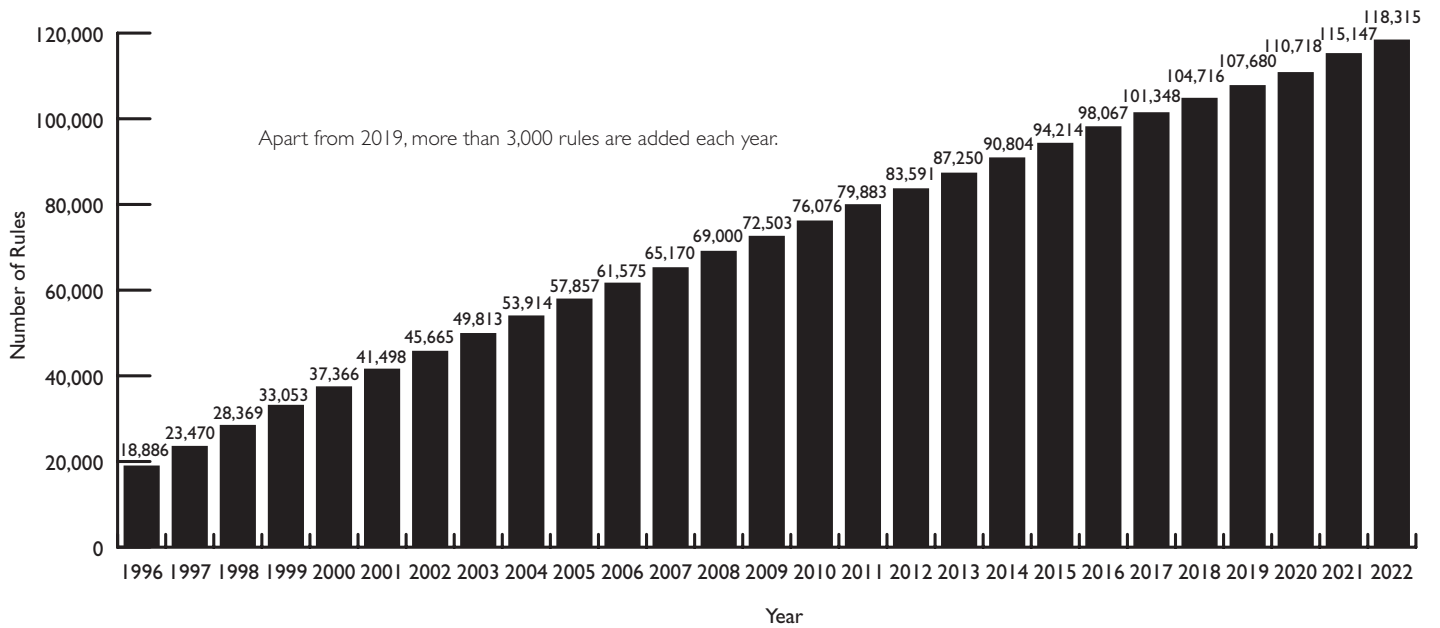
The Heritage Foundation noted the presence in 2021 of dozens of such anticipated rules.²⁴⁷ These reflect the underlying pursuit of progressive aims in the Biden agenda on (a) student debt relief; (b) corporate board diversity; (c) lending disclosures for financial institutions; (d) housing policy; (e) energy efficiency mandates; (f) restrictions on coal, oil, and gas leasing; and (g) other environmental regulations. The later section "Notable Rules and Rulemakings by Agency" surveys some of the rules in play.

Cumulative Final Rules in the *Federal Register*

The annual outflow of over 3,000 final rules (except for Trump's 2,964 rules in 2019) has resulted in 118,315 total new rules from 1993, when the first edition of *Ten Thousand Commandments* was published, through the end of 2022. Since 1976, when the *Federal Register* first began itemizing rules, 215,405 final rules have been issued (see Appendix: Historical Tables, Part B). Since 1996, the year the Congressional Review Act (CRA) was passed, 99,429 rules have been issued (see Figure 14).

Given that flow, the 20 rules repealed thus far by CRA resolutions of disapproval represent 0.02 percent of the total number of rules issued to date since the CRA's enactment. Of 23 resolutions of disapproval introduced in the 117th Congress, including some unsuccessful ones from the GOP related to COVID-19 rollbacks, three passed and were signed by Biden.²⁴⁸ The bulk, 16, were enacted during the Trump administration.

Figure 14. Accumulation of Final Rules Published in the *Federal Register*, 1996–2022



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