

# Federal regulations affecting small business

The aforementioned National Association of Manufacturers (NAM) report found that average annual per-employee regulatory costs to firms vary by firm size. The smaller the firm, the larger the per-employee regulatory costs, particularly in manufacturing. As shown in Table 9, the NAM found that per-employee

regulatory costs for firms with fewer than 50 workers can be far greater than those for larger firms—\$50,100 for smaller firms, compared with \$24,800 for larger ones.

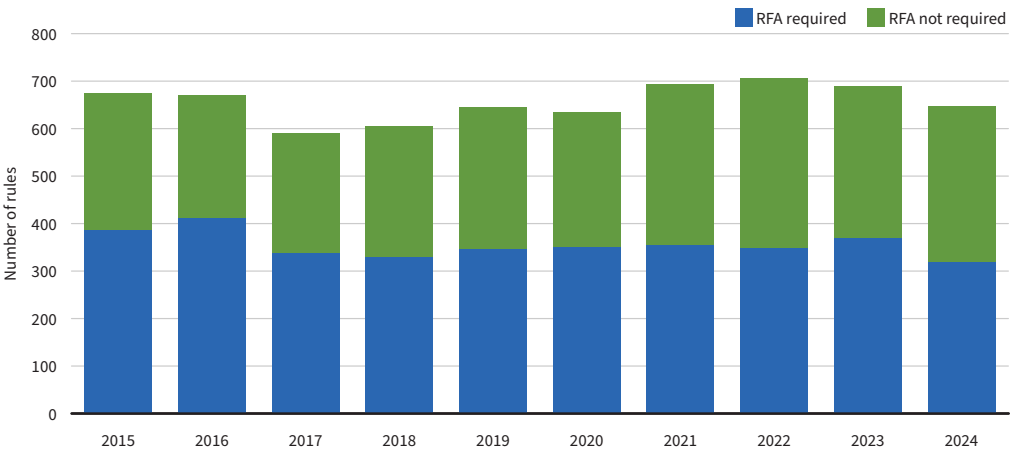
The Regulatory Flexibility Act (RFA) directs federal agencies to consider their

**Table 9. Distribution of regulatory costs in small, medium, and large manufacturing firms, 2022**

	All firms	< 50 employees	50–99 employees	> 100 employees
All federal regulations	\$29,100	\$50,100	\$28,000	\$24,800
Economic	\$10,400	\$7,600	\$10,900	\$11,000
Environmental	\$17,200	\$40,700	\$15,200	\$12,500
Tax compliance	\$500	\$500	\$800	\$400
Occupational/homeland security	\$1,000	\$1,300	\$1,100	\$900

Source: Nicole V. Crain and W. Mark Crain, “The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business,” National Association of Manufacturers, October 2023.

**Figure 21. Rules in the Unified Agenda pipeline affecting small business**



Source: Compiled by the author from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, fall edition, various years.  
Note: RFA = regulatory flexibility analysis.

rules’ effects on small entities.<sup>110</sup> Figure 21 depicts rules in active, completed, and long-term stages in the fall Unified Agenda that require RFA analysis, as well as rules that presumably do not rise to the level of requiring RFA scrutiny but that agencies still believe will affect small businesses. Of the 647 rules affecting small business in 2024, 320 required an RFA, down from 370 in 2023. Obama tallies were higher, occasionally exceeding 800.<sup>111</sup> The count fell to 590 in 2017 in the Trump administration.

Here are averages of the number of rules requiring RFA analysis in fall Unified Agenda snapshots of completed, active, and long-term rules during recent administrations:

- ▶ George W. Bush: average of 377 rules requiring small-business RFA.
- ▶ Barack Obama: average of 406 rules.
- ▶ Donald Trump: average of 341 rules (included dozens deemed deregulatory).
- ▶ Joe Biden: average of 348 rules.

Table 10 breaks out the fall 2024 Unified Agenda’s 647 rules affecting small business by department, agency, and commission. The top five—the FCC; the Departments of Health and Human Services, Commerce, and the Treasury; and the multiagency Federal Acquisition Regulation system—are the standouts, accounting for 339 rules, or 52 percent of the 647 rules affecting small business.

**Table 10. Rules in the Unified Agenda that affect small business by department, agency, and commission**

	Total Rules	Number Affecting Small Business							Affecting Small Business	Top 5
		RFA Required			RFA Not Required			Total		
		Active	Completed	L-T	Active	Completed	L-T			
Dept. of Agriculture	157	5		7	9		1	22	14.0%	
Dept. of Commerce	245	23	7	3	19	10	1	63	25.7%	63
Dept. of Defense	123	1	1		14	1		17	13.8%	
Dept. of Education	31				1			1	3.2%	
Dept. of Energy	79	2	4		1	1		8	10.1%	
Dept. of Health and Human Services	216	20	8	9	28	2	5	72	33.3%	72
Dept. of Homeland Security	115	10	1	5	2		2	20	17.4%	
Dept. of Housing and Urban Development	47							0	0.0%	
Dept. of the Interior	318	4	1		12	1	2	20	6.3%	
Dept. of Justice	114				8		9	17	14.9%	
Dept. of Labor	91	12			4	1	4	21	23.1%	
Dept. of State	49				9	2	1	12	24.5%	
Dept. of Transportation	298	6	5	1	14	4	3	33	11.1%	
Dept. of the Treasury	372	5	6	5	30	5	6	57	15.3%	57
Dept. of Veterans Affairs	74							0	0.0%	
Agency for International Development	13				3			3	23.1%	
Architectural and Transportation Barriers Compliance Board	5				1			1	20.0%	
Committee for Purchase from People Who Are Blind or Severely Disabled	4							0	0.0%	
Chemical Safetey and Hazard Investigation Board	1							0	0.0%	
Commodity Futures Trading Commission	27		1					1	3.7%	
Consumer Financial Protection Bureau	21	1	2					3	14.3%	
Consumer Product Safety Commission	27	8		1				9	33.3%	
Corporation for National and Community Service	11							0	0.0%	

	Total Rules	Number Affecting Small Business							Affecting Small Business	Top 5
		RFA Required			RFA Not Required			Total		
		Active	Completed	L-T	Active	Completed	L-T			
Council on Environmental Quality	2							0	0.0%	
Court Sevices/Offender Supervision, DC	4							0	0.0%	
Defense Nuclear Facilities Safety Board	1							0	0.0%	
Environmental Protection Agency	190	6	1		8	1	6	22	11.6%	
Equal Employment Opportunity Commission	8				3	1		4	50.0%	
Federal Acquisition Regulation	51	7		3	32	3	3	48	94.1%	48
Farm Credit Administration	11							0	0.0%	
Federal Communications Commission	113		1	94			4	99	87.6%	99
Federal Deposit Insurance Corporation	26				1			1	3.8%	
Federal Energy Regulatory Commission	20							0	0.0%	
Federal Financial Institutions Examination Council Appraisal Subcommittee	1							0	0.0%	
Federal Housing Finance Agency	21							0	0.0%	
Federal Maritime Commission	27							0	0.0%	
Federal Mediation and Conciliation Service	7							0	0.0%	
Federal Mine Safety and Health Review Commission	6				3			3	50.0%	
Federal Permitting Improvement Steering Committee	1							0	0.0%	
Federal Reserve System	3				1			1	33.3%	
Federal Trade Commission	26	1			18	5		24	92.3%	
General Services Administration	32	9	3	3	9	7		31	96.9%	
Inter-American Foundation	2							0	0.0%	
National Aeronautics and Space Administration	3							0	0.0%	
National Archives and Records Administration	15							0	0.0%	

	Total Rules	Number Affecting Small Business							Affecting Small Business	Top 5
		RFA Required			RFA Not Required			Total		
		Active	Completed	L-T	Active	Completed	L-T			
National Credit Union Administration	24				1			1	4.2%	
National Endowment for the Arts	4				2			2	50.0%	
National Endowment for the Humanities	1							0	0.0%	
National Indian Gaming Commission	2							0	0.0%	
National Labor Relations Board	2							0	0.0%	
National Mediation Board	1							0	0.0%	
National Science Foundation	5							0	0.0%	
National Transportation Safety Board	8							0	0.0%	
Nuclear Regulatory Commission	58	2	1	2				5	8.6%	
Office of Government Ethics	7							0	0.0%	
Office of Management and Budget	7							0	0.0%	
Office of the National Cyber Director	1							0	0.0%	
Office of Personnel Management	37							0	0.0%	
Peace Corps	2							0	0.0%	
Pension Benefit Guaranty Corporation	8							0	0.0%	
Postal Regulatory Commission	7							0	0.0%	
Railroad Retirement Board	5							0	0.0%	
Securities and Exchange Commission	42	14	2					16	38.1%	
Selective Service System	2							0	0.0%	
Small Business Administration	61	4	2					6	9.8%	
Social Security Administration	21					1		1	4.8%	
Surface Transportation Board	5			1				1	20.0%	
Tennessee Valley Authority	1				1			1	100.0%	

	Total Rules	Number Affecting Small Business							Affecting Small Business	Top 5
		RFA Required			RFA Not Required			Total		
		Active	Completed	L-T	Active	Completed	L-T			
US Agency for Global Media	4							0	0.0%	
TOTAL	3,331	140	46	134	234	45	48	647	19.4%	339
		320			327					52% of total
		RFA Required			RFA Not Required					
		Active	Completed	L-T	Active	Completed	L-T			
“Section 3(f)(1) Significant” subset		36	14	13	9	3	1	76		

Source: Compiled from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” and from the online edition at <http://www.reginfo.gov>.

Note: L-T = long term; RFA = regulatory flexibility analysis.

The FCC alone contributes 94 long-term rules deemed to require RFA analysis (up from 80 the prior year). The overall proportion of total rules affecting small business in the Unified Agenda stands at 19 percent but varies widely among agencies. Of the 647 rules affecting small business, 76 are deemed Section 3(f)(1) Significant (compared to 105 the prior year). These are broken out at the bottom of Table 10. Dips in major rulemaking are common in election years.

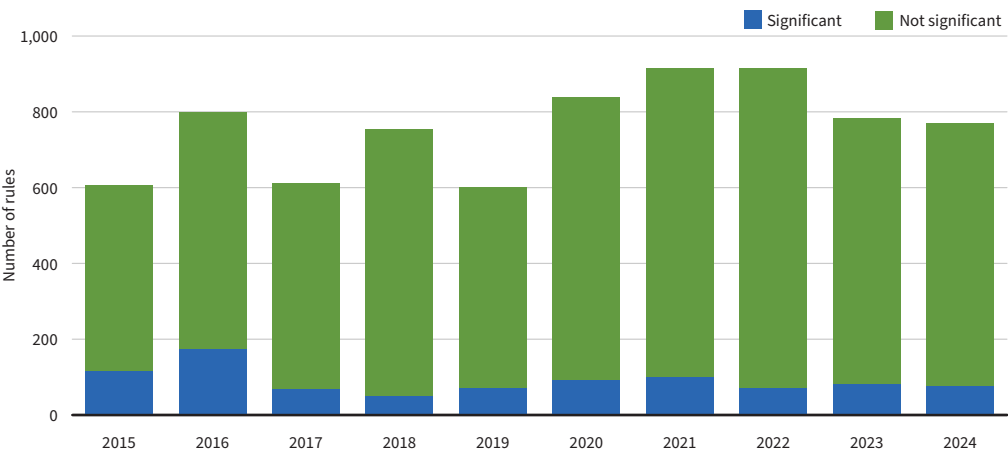
To complement the fall Unified Agenda snapshots, we return for a moment to the *Federal Register* and its calendar-year depictions of finalized small-business rules. Figure 22 depicts the larger universe of final rules and the “significant” subset completed in the *Federal Register* deemed to affect small business since 2015. Overall counts stand above

pre-Trump levels, whereas at the moment the significant subset stands below Obama heights.<sup>112</sup> However, again, Biden’s Section 3(f)(1) criteria leaves out rules costing between \$100 million and \$200 million. The 2024 *Federal Register* contains 76 significant final small-business rules among the total of 770, which might be compared with the 14 completed small-business rules in the fall Unified Agenda recognized as S3F1 Significant (bottom of Table 10).

With the transition-year overlap caveat once again in mind, here are calendar-year averages of the number of final and final significant rules in the *Federal Register* affecting small business during recent administrations:

- Barack Obama (eight years): average 694 rules per year affecting small business, 117 significant.

**Figure 22. Number of final and significant final rules in the *Federal Register* affecting small business**



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

- ▶ Donald Trump (four years): average 701 rules per year affecting small business, 70 significant (including deregulatory).
- ▶ Joe Biden (four years): average 846 rules per year, 82 significant.

Just Biden had higher averages than Trump and Obama for total final rules affecting small business, he was doing the same for total proposed rules in the *Federal Register* affecting small business, despite dropping to 548 in 2024. This category recently peaked at 823 in 2021, as seen in Figure 23. Counts for proposed rules deemed to affect small business classified as significant are considerably lower, however.

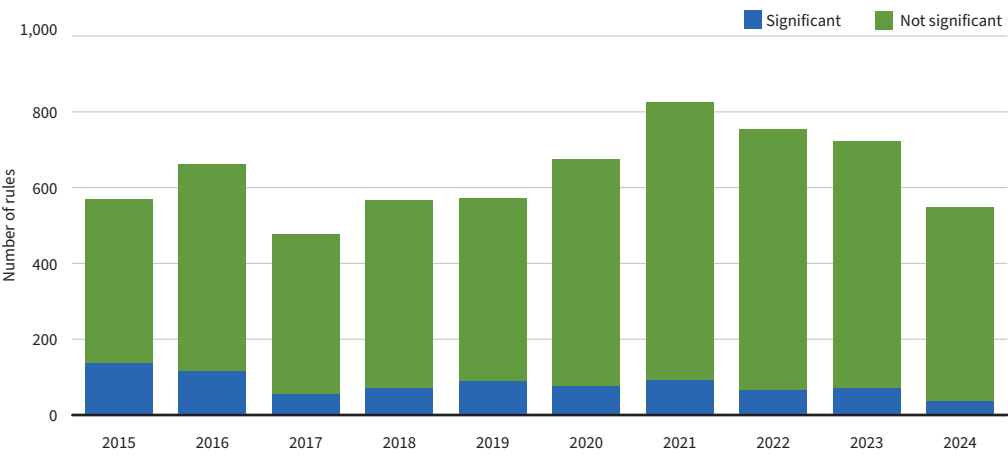
Transition caveat in mind yet again, here are calendar-year averages of the

number of proposed and significant proposed rules affecting small business during recent administrations:

- ▶ Barack Obama (eight years): average 612 proposed rules per year affecting small business, 128 significant.
- ▶ Donald Trump (four years): average 572 proposed rules per year, 72 significant (includes deregulatory).
- ▶ Joe Biden (four years): average 711 rules per year, 66 significant.

The legislative foundations of regulations affecting small business are without doubt substantial. Appendix K presents a partial list of non-sector-specific laws whose regulations affect growing businesses.

**Figure 23. Number of proposed and significant proposed rules in the *Federal Register* affecting small business**



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