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Subject: This is Independence Day? Federal Regulatory Burden Reaches New Heights



**This is Independence Day?
Proliferation of Rules Documented in Newest July 4 Report**

**Ten Thousand Commandments: An Annual Snapshot
of the Federal Regulatory State**

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Washington, D.C., June 30, 2005—A new Competitive Enterprise Institute report on federal regulation finds that while the number of new rules declined slightly from 2003, costs are at record levels compared to other economic measures. Clyde Wayne Crews, Jr., author of the report *Ten Thousand Commandments*, reports that regulatory costs exceed all pretax corporate profits (\$745 billion) and all personal income taxes (\$765 billion). The number of pages in the Federal Register, where new regulations are published, has increased 6.2 percent to 75,676 pages—an all-time record.

President Bush proposed \$2.57 trillion in discretionary, entitlement, and interest spending in the federal budget. Although those costs do fully account for the on-budget scope of the federal government, environmental, safety and health, and economic regulations add over \$870 billion in off-budget costs every year.

"As we approach Independence Day this weekend, anyone who looks at the current size and complexity of the federal regulatory state is struck by the growth of government since the nation's founding," said Crews. "In the republic's early days the kind of intrusive, detailed rules so prevalent today simply didn't exist. In the years since, the creep of new regulations has resulted in an unwieldy mass of expensive rules that attempt to control things which would have shocked the Founding Fathers."

There are now 4,266 new rules and regulations at various stages of implementation, with 135 of them expected to

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have annual economic impacts of over \$100 million each. The number of these "economically significant" rules increased 6 percent between 2003 and 2004.

"At the very least, future federal budgets need to acknowledge and document the 'off-budget' costs of regulation. Only then will Americans have the real truth about the federal government's reach in their lives," Crews concluded.

The study is available online.

Executive Summary

In the fiscal year 2006 federal budget, President Bush proposed \$2.57 trillion in discretionary, entitlement, and interest spending. Although those costs fully express the on-budget scope of the federal government, there is considerably more to the government's reach than the sum of the taxes sent to Washington. Federal environmental, safety and health, and economic regulations cost hundreds of billions of dollars every year—on top of official federal outlays.

The exact cost of federal regulations can never be fully known. Firms generally pass along to consumers some of the costs of the taxes they are required to pay. Similarly, some regulatory costs, although generally imposed on businesses, get passed on to consumers. But governmental and private data exist on scores of regulations and the agencies that issue them, as well as on regulatory costs and benefits, some of which can be compiled in a way that makes the regulatory state more comprehensible to the public. That is the purpose of the annual Ten Thousand Commandments report, some highlights of which appear below.

- The 2004 Federal Register contained 75,676 pages, a 6.2 percent increase from 2003's 71,269 pages. This is an all-time record.
- In 2004, 4,101 final rules were issued by agencies. This is a slight 1 percent decline from 2003.
- Whereas regulatory agencies issued 4,101 final rules, Congress passed and the President signed into law a comparatively low 299 bills in 2004.
- In the 2004 Unified Agenda, agencies reported on 4,083 regulations that were at various stages of implementation throughout the 50-plus federal departments, agencies, and commissions, a 4 percent drop from the previous year's 4,266.
- Of the 4,266 regulations now in the regulatory pipeline,

135 are "economically significant" rules that will have at least \$100 million in economic impact. Those rules will impose at least \$13.5 billion yearly in future off-budget costs.

- Economically significant rules in the works increased 6 percent between 2003 and 2004, from 127 to 135.
- The five most active rule-producing agencies—the departments of Treasury, Homeland Security, Transportation, and Interior and the Environmental Protection Agency—with 1,850 rules among them, account for 45 percent of all rules in the Agenda pipeline.
- Of the 4,083 regulations now in the works, 789 affect small business. Rules affecting small business are down 8 percent over the past year and 25 percent over the past five years.
- The Office of Management and Budget's 2005 draft report on the costs and benefits of federal regulations finds cumulative 1994–2004 costs of major regulations to be between \$35 and \$39 billion; meanwhile, the estimated range for benefits was \$68 billion to \$260 billion.
- Based on a more broadly constructed compilation of annual regulatory costs by economists Thomas Hopkins and Mark Crain, regulatory costs hit an estimated \$877 billion in 2004, an amount equivalent to 38 percent of all FY 2004 outlays.
- Regulatory costs are more than twice the \$412 billion budget deficit.
- Regulatory costs of \$877 billion are equivalent to 7.6 percent of U.S. gross domestic product, estimated at \$10,980 billion for 2003.
- Federal regulatory costs of \$877 billion combined with outlays of \$2,292 billion bring the federal government's share of the economy to some 27 percent.
- Regulatory costs also exceed all corporate pretax profits, which were \$745 billion in 2002.
- Regulatory costs exceed estimated 2004 individual income taxes of \$765 billion, and are far greater than corporate income taxes of \$169 billion.
- On the basis of estimates from the Weidenbaum Center and the Mercatus Center, agencies spent \$36.3 billion merely to administer and police the regulatory state in 2004. Counting the \$877 billion in off-budget costs, that brings the total regulatory burden to \$913 billion.

The U.S. government has conclusively ended its recent short-lived string of budgetary surpluses—the first since 1969. But if regaining and maintaining a true surplus remains a priority, policy makers must seek to control regulatory costs. Think of it this way: The maximum surplus projected by the Congressional Budget Office over the coming decade is a minimal and highly speculative \$71 billion in 2012. Regulatory costs of more than \$800 billion clearly dwarf that amount. Moreover, regulations and taxes can be substitutes for one another; a new government program requires increasing spending—or imposing new rules and regulations. Thus, unless regulatory activity is better monitored, deficit control may tend to invite Congress to adopt new off-budget private-sector regulations rather than new spending that would increase the deficit. If regulatory costs remain largely hidden from public view, regulating will continue to look like an attractive alternative to taxing and spending. Regulations should be treated the same way federal spending is treated: Whenever possible, Congress should be held accountable for the compliance costs—as well as the benefits—of federal regulations. Cost/benefit analysis of rules is the typical remedy proposed to police excess regulation. The problem with cost/benefit analysis, however, is that it is largely a form of agency self-policing; agencies would perform "audits" of their own rules, but would rarely admit that the benefits of a rule do not justify the costs involved. At the least, some third-party review would be needed.

A way to maximize congressional accountability is to require Congress to vote on agency rules—in an expedited fashion—before they become binding. Vital for true accountability, this step would fulfill citizens' expectation of "no regulation without representation."

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

[The study is available online.](#)

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