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## Executive Summary

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June 26, 1998

## TWO YEARS AND 8,600 RULES: WHY CONGRESS NEEDS AN OFFICE OF REGULATORY ANALYSIS

ANGELA ANTONELLI

Since 1994, Congress has taken modest steps toward improving the federal regulatory system through such laws as the Unfunded Mandates Reform Act of 1995, the Small Business Regulatory Enforcement Fairness Act, the Congressional Review Act (CRA), and Office of Management and Budget (OMB) Regulatory Accounting Reports. Yet, despite these good intentions, the number of final rule documents published in 1996 in the *Federal Register* was the highest since 1984.

Even worse, between April 1, 1996, when the U.S. General Accounting Office (GAO) began to track the final rules issued by federal agencies under the CRA, and April 30, 1998, Congress received 8,675 new final rules for review. But even though the CRA allows Congress to review each new rule and consider a joint resolution of disapproval to overrule it, only a handful of such resolutions were introduced, and none came close to a floor vote. The result: Not one new rule was disapproved. In addition, 126 of these 8,675 rules qualified as “major” rules, each of which would impose a cost of at least \$100 million annually on the American economy. These 126 major rules—only 1.0 percent of all final rules crafted during this period—will cost American consumers, employers, employees, and taxpayers at least \$12.6 billion.

In many cases, the only information on a new rule that is available to Members of Congress is provided by the agency that is promulgating the rule. The limited information that currently exists about the costs and benefits of regulation, and the sheer volume of final rules issued, have led several legislators to demand that Congress do a better job of carrying out its constitutional responsibility of full regulatory oversight. But Congress is at a disadvantage: The current federal regulatory system encompasses more than 50 federal agencies, more than 126,000 workers, and annual spending of \$14 billion; at best, Congress employs only a handful of people to monitor federal regulatory activity. Moreover, the federal agencies have the pertinent information that Congress needs, and Congress must rely on the information that each agency is willing to provide. Obviously, no federal agency with an interest in seeing a particular rule instituted is going to be

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inclined to maximize the availability of information that might bring that rule into question.

Congress needs reliable mechanisms to facilitate a balanced and informed discussion of the merits of each rule as early as possible, preferably *before* the rule is issued. But Congress has failed to put in place any structure, such as a coordinated committee review mechanism, or set aside any resources to help it carry out the requirements of the Congressional Review Act. As a result, many Members remain unaware of, or ill-informed about, the volume and types of rules that federal agencies have generated since 1996. Members often engage in the costly and time-consuming exercise of submitting detailed requests to agencies for basic information about their rulemaking activity, and responses may not come for years, let alone weeks or months. This puts Congress at an inherent disadvantage in trying to oversee federal regulatory activity.

To address this problem, Representatives Sue Kelly (R-NY) and James Talent (R-MO) and Senators Richard Shelby (R-AL) and Christopher Bond (R-MO) have introduced the Congressional Office of Regulatory Analysis Creation Act (H.R. 1704/S. 1675). These bills would establish a nonpartisan Congressional Office of Regulatory Analysis (CORA) to bring balance to the regulatory review process and break the virtual monopoly on regulatory analysis that federal regulatory agencies now enjoy. CORA's sole priority would be to monitor the federal regulatory system for Congress. Currently, higher priority budget and program audit activities often prevent the Congressional Budget Office (CBO) and GAO from focusing effectively on the federal regulatory system. H.R. 1704/S. 1675 would transfer the functions of the GAO under the Congressional Review Act, and certain functions of the CBO under the Unfunded Mandates Reform Act, to CORA. Together, the functions of the CBO and CORA would become the congressional counterparts of the existing budget and regulatory functions of OMB.

As a nonpartisan research arm of Congress, the Congressional Office of Regulatory Analysis would:

- Receive copies of all rules issued by federal agencies;
- Undertake an independent analysis of each major rule;
- As resources permit, undertake analyses of other rules requested by Members; and
- Produce an annual report on the total costs of regulation to the U.S. economy. This report would be the legislative version of the White House OMB report required by Congress in 1997 and 1998.

Despite providing such detailed assessments of regulatory costs, the Congressional Office of Regulatory Analysis Act could be improved to require that CORA report on the benefits of each regulation as well as its costs. The bill authorizes funding for CORA through FY 2006 at \$5.2 million annually, an amount roughly equivalent to funding for the Office of Information and Regulatory Affairs (OIRA) in FY 1998. The CBO reported that H.R. 1704 would not affect direct spending or receipts and that pay-as-you-go procedures would not apply.

After receiving more than 8,600 new rules in the two years since passage of the CRA, Congress cannot possibly assure the American people that it is able to address the substance of each rule effectively. The establishment of a Congressional Office of Regulatory Analysis—whether as a free-standing office, as proposed in H.R. 1704/S.1675, or as part of the CBO—represents the next logical step in Congress's efforts to improve the regulatory system and foster sensible rulemaking based on facts. The information provided by such an office would help legislators understand the financial and economic impact of their decisions *before* they approve each rule or pass a new law.

—Angela Antonelli is Director of The Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.



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## TWO YEARS AND 8,600 RULES: WHY CONGRESS NEEDS AN OFFICE OF REGULATORY ANALYSIS

ANGELA ANTONELLI

For far too long, federal agencies have blamed Congress for many of the burdensome regulations they have crafted, and this blame has often been justified. In 1996, to make itself accountable to the American public for all regulations of the federal government, the 104th Congress passed the Congressional Review Act (CRA) as part of the Small Business Regulatory Enforcement Fairness Act (SBREFA).<sup>1</sup> The CRA enables Congress to review each new rule and, if it deems it necessary, consider a joint resolution of disapproval.

The CRA's purpose and potential have yet to be fully realized, however, in large part because of insufficient congressional commitment to the Act's implementation. Congress has made no effort to put in place a structure, such as a coordinated committee review mechanism, or to set aside resources to help carry out the law. Consequently, many Members remain unaware of or ill-informed about the significant volume or types of rules that

have been generated by federal agencies and sent to them for review in the two years since passage of the CRA.<sup>2</sup>

Congress has a constitutional responsibility to oversee the federal regulatory system; the only authority it has delegated to executive branch agencies is the authority to implement congressional statutory intent through federal regulations.

Between April 1, 1996, when the U.S. General Accounting Office (GAO) began to track final rules under the CRA, and April 30, 1998, Congress received a total of 8,675

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1. The Congressional Review Act (CRA) is Subtitle E of Title II, the Small Business Regulatory Enforcement Fairness Act, of the Contract With America Advancement Act of 1996. It established an expedited process by which Congress would review and possibly disapprove any final federal agency regulation.
  2. For example: "in calendar year 1998 alone, the [House] Committee on Transportation and Infrastructure has received over 900 rules, some with lengthy benefit-cost analyses, from a number of agencies. . . ." Letter from Bud Shuster (R-PA), Chairman, Committee on Transportation and Infrastructure, U.S. House of Representatives, to James Hinchman, Acting Comptroller General, U.S. General Accounting Office, June 2, 1998, p. 1.



final rules for review. Congress did not disapprove a single one. Less than a handful of resolutions of disapproval were introduced,<sup>3</sup> and not one came to the floor for a vote.

Moreover, 126 of these 8,675 rules are “major” rules, each of which would impose a cost of at least \$100 million annually on the economy. Just one—the July 1997 Environmental Protection Agency (EPA) new final standards for particulate matter and ozone—involves agency-estimated costs of more than \$60 billion.<sup>4</sup> In addition, the other 125 major rules, which represent only 1 percent of all final rules generated during this two-year period, will cost American consumers, employers, employees, and taxpayers at least \$12.5 billion. The costs imposed by the remaining rules more than likely will range from \$0.00 to as high as \$99 million each; it is impossible to be precise, however, because neither Congress nor the federal agencies track such estimates.

The sheer volume of final rules submitted to Congress under the CRA, and the limited amount of information about the costs of regulation, have spurred some Members to push Congress to reform itself to oversee the federal regulatory system more effectively. Both the House of Representatives and the Senate, for example, are poised to consider legislation that would inject an element of checks and balances into the regulatory process and break the virtual monopoly on regulatory analysis enjoyed by federal regulatory agencies.

Congress is often at a disadvantage when it seeks to challenge an agency’s rulemaking. In many cases, the only information available to Members regarding a regulation is provided by the very agency that is trying to justify and promulgate the rule. Obviously, no federal agency with an interest in promulgating a rule is going to be inclined to maximize the dissemination of infor-

mation that might raise concerns about its actions. Recent highly politicized debates over some costly new federal regulations suggest that Congress needs to ensure that it is given reliable and accurate information about major new regulatory policies as soon as possible, *before* such policies are finalized by agencies and generate significant public concern. More important, Congress needs to develop mechanisms that will facilitate a balanced and informed discussion of the merits of a rule as early as possible.

With this need in mind, on March 22, 1997, Representatives Sue Kelly (R-NY) and James Talent (R-MO) introduced H.R. 1704, the Congressional Office of Regulatory Analysis Creation Act, to establish a new Congressional Office of Regulatory Analysis (CORA). Senators Richard Shelby (R-AL) and Christopher Bond (R-MO) introduced the Senate companion bill, S. 1675, on February 25, 1998. CORA would be tasked with providing Congress with information and analyses about rules. It would function as the regulatory counterpart of the Congressional Budget Office (CBO), bringing together the existing regulatory functions of the CBO and the GAO to avoid unnecessary duplication of effort. The functions of the CBO and CORA would be the congressional counterparts of the existing budget and regulatory functions of the White House Office of Management and Budget (OMB).

The bills’ sponsors proposed funding CORA at \$5.2 million annually—the approximate level at which OMB’s Office of Information and Regulatory Affairs (OIRA) is funded. By contrast, 50 regulatory agencies currently spend \$14 billion annually on regulatory activity. In addition, the total direct costs of regulation have been estimated to range between \$300 billion and \$700 billion annually. Finding \$5 million in a \$1.7 trillion federal budget to reallocate to an office whose sole purpose is to

3. For example, Representative Roger Wicker (R-MS) introduced House Joint Resolution 67 to disapprove the Occupational Safety and Health Administration’s major final rule tightening the standard for exposure to methylene chloride; and Representative Don Young (R-AK) introduced HJR 59 to disapprove the U.S. Fish and Wildlife Service’s final rule related to polar bear trophies from Canada.
4. For a detailed discussion of the benefit-cost estimates of this rule, see Angela Antonelli, “Can No One Stop the EPA?” Heritage Foundation *Backgrounder* No. 1129, July 8, 1997, p. 11.



save the government and taxpayers money, rather than spend it, should not be difficult.

Those who seek to establish an office of regulatory analysis for Congress understand the critical role such an office would play in checking regulatory excess and enhancing the nature of the debate in Washington about the merits of regulatory actions. Where this office is located—whether it is free-standing or part of the Congressional Budget Office—is less important than Congress's need to arm itself with a mechanism for obtaining fair and accurate information and analysis. By creating a regulatory balance between the legislative and executive branches, such an office would make regulatory decisions less subject to politically motivated rhetoric and more subject to debate that is based on fully informed, balanced, and analytic information on the merits of each rule.

## **CONGRESSIONAL OVERSIGHT OF REGULATORY ACTIVITY NEEDS FOCUS**

Under the Congressional Review Act, no rule may go into effect until it has been delivered to Congress for review. A “rule” is defined broadly to include all general agency statements that affect the public, including “interpretive” rules, agency “policy statements,” “guidelines,” and “staff manuals.” Federal agencies must report to Congress on each rule; specifically, they must state whether they have evaluated the costs of the rule relative to its benefits, whether it will require the taking of private property, and whether it affects the relationship between the federal government and state and local governments. Any rule rejected by Congress would have to be changed substantially before it could be resubmitted.

So far, Congress has not used the CRA to reject a rule, but the Act has produced valuable information—perhaps much more than Congress could have foreseen. The GAO now prepares summary reports of agencies' regulatory analyses for major

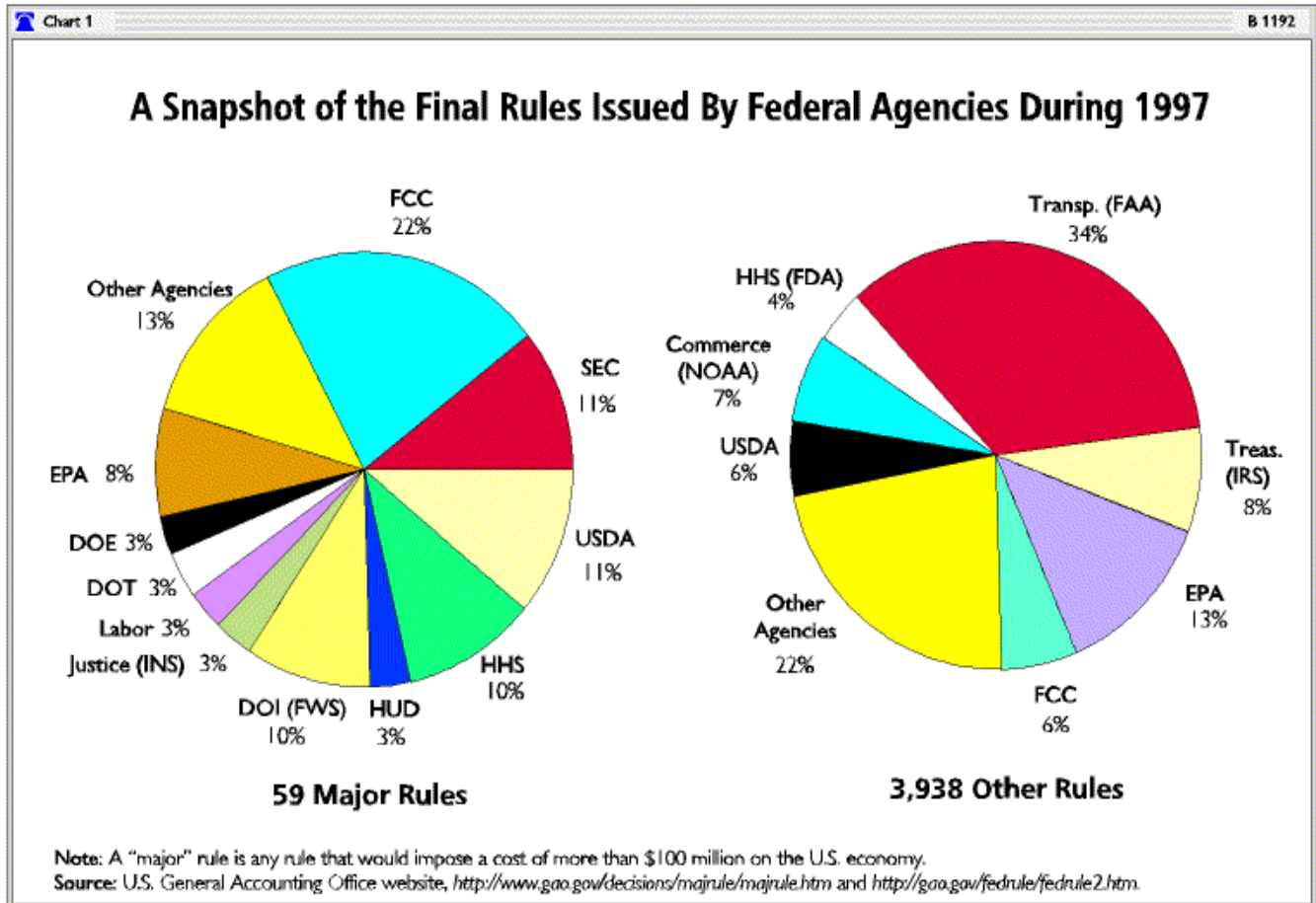
rules; it also has compiled a database of all final regulations issued by federal agencies since passage of the CRA. This is the first time in congressional history that a system has been put in place to conduct a comprehensive tracking of the rules federal regulatory agencies produce. This database provides Congress with actual, not projected, data on federal regulatory activity. This type of information was not available before the CRA was passed.

## **How 8,600 Final Rules Fared Under the CRA**

According to the GAO, between April 1, 1996, and April 30, 1998, Congress received from federal regulatory agencies a total of 8,675 final rules for review under the Congressional Review Act.<sup>5</sup> Chart 1 provides a snapshot of rulemaking in 1997, the first full calendar year of the database. During 1997, the GAO reports, agencies issued 59 major and 3,938 non-major rules. The agencies that issued the greatest number of major final rules were the Federal Communications Commission (FCC) at 22 percent, the Securities and Exchange Commission (SEC) at 11 percent, the U.S. Department of Agriculture (USDA) at 11 percent, the Department of Health and Human Services (HHS) at 10 percent, the Department of the Interior at 10 percent, and the EPA at 8 percent. The agencies that issued the most non-major final rules during this same period were the Department of Transportation's Federal Aviation Administration (FAA) at 34 percent, the EPA at 13 percent, the Treasury Department's Internal Revenue Service at 8 percent, and the Commerce Department's National Oceanic and Atmospheric Administration (NOAA) at 7 percent.

GAO Major Rule Reports. A Heritage Foundation review of some of the major rules issued by federal regulatory agencies (see Appendix A) and the corresponding GAO reports submitted to Congress during 1997 suggest a high degree of discretion and inconsistency in how agencies analyze the

5. Available at <http://www.gao.gov/decisions/majrule/majrule.htm> (for major final rules) and <http://gao.gov/fedrule/fedrule2.htm>.



benefits and costs of their regulatory decisions, and in how readily available and accessible such information is to the public. A review of GAO reports to Congress on major rules under the Congressional Review Act suggests two trends:

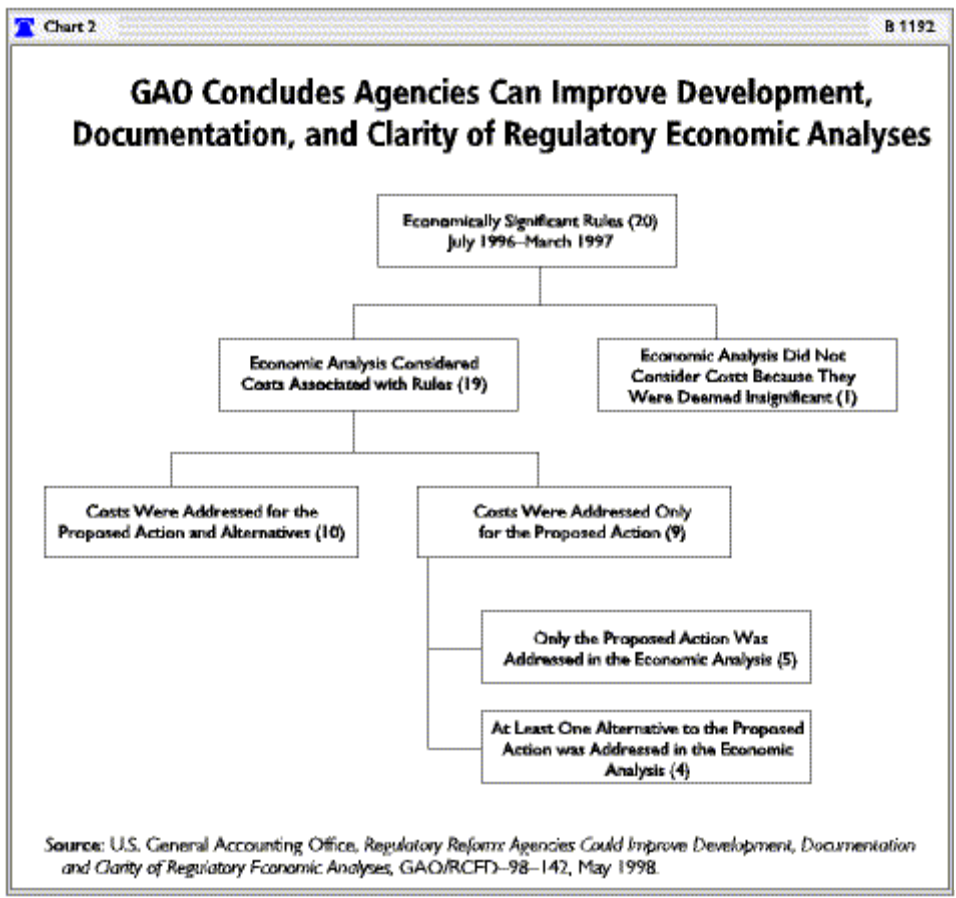
- Many major rules do not consistently include estimates of the costs and benefits.<sup>6</sup> Of the major rules listed in Appendix A, approximately 25 percent of the agency reports submitted to the GAO contain no summary estimates of any costs or benefits, or any other indication that an economic impact analysis was completed.

- More than one-third of the major rules are issued by independent regulatory agencies, such as the FCC, the SEC, and the Nuclear Regulatory Commission (NRC), which are not subject to review by OMB and therefore operate with little or no oversight.

A May 26, 1998, GAO report to Senators Fred Thompson (R-TN) and John Glenn (D-OH), chairman and ranking minority member, respectively, of the Senate Governmental Affairs Committee, confirms these conclusions.<sup>7</sup> Based on its review of 20 regulations promulgated during the period from July 1996 through March 1997, the GAO concluded that

6. See U.S. General Accounting Office, *Regulatory Reform: Agencies Could Improve Development, Documentation and Clarity of Regulatory Economic Analyses*, GAO/RCED-98-142, May 1998.

7. *Ibid.*, p. 3.



5 of the 20 analyses did not discuss alternatives to the proposed regulatory action, 6 did not assign dollar values to the benefits, and 1 did not assign dollar values to costs—all of which are practices recommended by the [OMB] guidance. . . . Although GAO found many instances in which best practices were not followed in the analyses, the reason for not following was disclosed in only one instance. In addition, eight of the economic analyses did not include an executive summary that could help Congress, decisionmakers, the public and other users quickly identify key information addressed in the analyses. Finally, only 1 in 20 analyses received an independent peer review.<sup>8</sup> (See Chart 2.)

The GAO also reported that “the clarity of the

20 analyses varied, making it difficult at times to determine where or whether elements of OMB’s guidance were discussed.” In addition, agencies’ analyses of costs and benefits varied considerably based on their assumptions.<sup>9</sup> For example, the dollar value that agencies assign to human life varies considerably. This value has a significant impact on an agency’s estimates of the benefits to be derived from a rule.

Examples of major rules issued between April 1, 1996, and April 30, 1998, as reported by the GAO, include the following:

- The FCC issued a final rule in August 1996 to mandate that all telephones in the workplace, in confined settings (such as hospitals and nursing homes), and in hotels and motels be hearing aid compatible (HAC), have volume

8. *Ibid.*, p. 4.

9. *Ibid.*, p. 25.



control, and have the letters “HAC” affixed to them.<sup>10</sup> The FCC estimated that increases in manufacturing costs to comply with this rule would be between \$0.50 and \$1.00 per unit; according to the GAO, no benefits were quantified or described, but the FCC concluded “any costs are significantly outweighed by the benefits achieved.”<sup>11</sup>

- The FCC issued a final rule in August 1996<sup>12</sup> that mandates “cellular, broadband personal communications services, and certain specialized mobile radio licensees to provide manual roaming services upon request to subscribers in good standing. . . .”<sup>13</sup> The FCC did not conduct an analysis of the final rule’s costs, benefits, or economic impact.
- The SEC issued a final rule in February 1997<sup>14</sup> that “amends existing rules and forms for domestic and foreign issuers to clarify and expand disclosure requirements for market risk sensitive instruments. . . . [T]he amendments expand existing disclosure requirements to include quantitative and qualitative information about market risk inherent in market risk sensitive instruments and provide safe harbor protection to this information.”<sup>15</sup> The SEC did not prepare an economic impact analysis for either benefits or costs.
- The Food and Drug Administration (FDA) issued a final rule in August 1996 regulating the “sale and distribution of cigarettes and smokeless tobacco products to children and adolescents.”<sup>16</sup> The FDA estimates the operating costs to be between \$145 million and \$185 million annually, and the annual benefits to be between \$2 billion and \$4 billion.
- The Department of Transportation (DOT) oversees the National Highway Traffic Safety Administration (NHTSA). NHTSA issued a final rule in March 1997<sup>17</sup> to amend its occupancy crash protection standard to allow for the deactivation of air bags after discovering that airbags may kill as well as protect occupants in a crash. According to NHTSA, “costs are not a significant issue for the rulemaking . . . and based on data available . . . 643 lives of belted occupants could be saved by having depowered air bags.”<sup>18</sup>
- The EPA issued a final rule in May 1997<sup>19</sup> that adds seven industry groups subject to the reporting requirements of section 313 of the Emergency Planning and Community Right to

10. *Federal Register*, Vol. 61, August 14, 1996, p. 42181.

11. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable Larry Pressler and the Honorable Thomas Bliley, “Federal Communications Commission: Access to Telecommunications Equipment and Services by Persons with Disabilities,” GAO/OGC-96-36, p. 3.

12. *Federal Register*, Vol. 61, August 27, 1996, p. 43977.

13. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable Larry Pressler and the Honorable Thomas Bliley, “Federal Communications Commission: Provision of Roaming Services by Commercial Mobile Radio Service Providers,” GAO/OGC-96-39, p. 1.

14. *Federal Register*, Vol. 62, February 10, 1997, p. 6044.

15. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable Alfonse D’Amato and the Honorable Thomas J. Bliley, “Securities and Exchange Commission: Disclosure of Accounting Policies for Derivative Financial Instruments and Derivative Commodity Instruments,” GAO/OGC-97-20, p. 1.

16. *Federal Register*, Vol. 61, August 28, 1996, p. 44395.

17. *Federal Register*, Vol. 62, March 19, 1997, p. 12960.

18. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable John McCain and the Honorable Thomas Bliley, “Department of Transportation, National Highway Traffic Administration: Federal Motor Vehicle Safety Standards; Occupant Crash Protection,” GAO/OGC-97-33, p. 3.

19. *Federal Register*, Vol. 62, May 1, 1997, p. 23834.





## Keeping Up With the Rulemakers

During calendar year 1997, federal regulatory agencies issued 3,938 non-major final rules and 59 major final rules.<sup>1</sup> Congress did not disapprove a single rule. Among the final rules issued by federal regulators:

- **The Internal Revenue Service** issued 255 final rules to clarify an obviously complex tax code.
- **The Environmental Protection Agency** issued 519 final rules, including five major rules, such as more stringent standards for particulate matter and ozone.
- **The Federal Communications Commission** issued 231 final rules regarding deregulation of the telecommunications industry

after passage of the Telecommunications Act of 1996.

- **The Agriculture Marketing Service** issued 105 final rules regulating the quality and quantity of produce, including spearmint oil in the Far West and domestic dates in Riverside County, California, as well as popcorn promotion, research, and consumer information.
- **The National Oceanic and Atmospheric Administration** issued 246 final rules regulating the fishing industry, including quotas that affect a wide range of fish from the Atlantic surf clam and ocean quahogs to the Pacific halibut.

1. U.S. General Accounting Office database of final rules under the Congressional Review Act. See <http://www.gao.gov/decisions/majrule/majrule.htm> and [www.gao.gov/fedrule/fedrule2.htm](http://www.gao.gov/fedrule/fedrule2.htm).

Know Act of 1986. According to the GAO, EPA stated that the “6,300 firms submitting 42,500 reports annually will be added by the rule . . . for a total compliance cost of \$226 million for the first year, declining to \$143 million in subsequent years. . . . Benefits are not monetarily quantified because of the lack of any existing methodology to do so.”<sup>20</sup> EPA keeps expanding the facilities and chemicals covered, but claims it has no ability to determine whether there are benefits from its activities.

- The Department of Energy (DOE) issued a final rule in September 1997<sup>21</sup> to amend its existing energy conservation standards for

room air conditioners. According to the GAO, DOE “projects that the standards set forth will save .64 quads of energy through 2030, which is estimated to result in a cumulative reduction of emissions of approximately 95,000 tons of nitrogen dioxide and 54 million tons of carbon dioxide. . . . DOE concluded that the proposed standards were not economically justified and that the standards set forth in the final rule are significantly less costly than those proposed earlier.”<sup>22</sup> The health benefits of the emissions reductions were not identified.

- The EPA issued a final rule in July 1997<sup>23</sup> amending its National Ambient Air Quality

20. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable John Chafee and the Honorable Thomas Bliley, “Environmental Protection Agency: Addition of Facilities in Certain Industry Sectors,” GAO/OGC-97-41, p. 3.

21. *Federal Register*, Vol. 62, September 24, 1997, p. 50122.

22. Letter from Robert P. Murphy, General Counsel, U.S. General Accounting Office, to the Honorable Frank Murkowski and the Honorable Thomas Bliley, “Department of Energy: Energy Conservation Program for Consumer Products,” GAO/OGC-98-13, p. 3.



Standard for Particulate Matter and Ozone. EPA's estimates suggest that the costs of the new ozone standard will exceed its benefits; the costs of just partial attainment are estimated to be in the range of \$600 million to \$2.5 billion annually, and the benefits from zero to \$1.5 billion.<sup>24</sup>

What the GAO/CRA Database Reveals About Non-Major Rules. The most important benefit provided by the GAO database of non-major rules is that it gives Congress a snapshot of a range of federal regulatory activities that enables Members to study these activities more effectively, even though a rule is not *per se* a "major" one. More specifically, Congress can ascertain whether there are areas in which the federal government, including Congress, should stop micromanaging or provide the public with more helpful information.

Federal Micromanagement. Examples of federal micromanagement include:

- The USDA's Agriculture Marketing Service issues hundreds of marketing orders affecting a wide variety of agricultural products, from milk to spearmint oil. An October 1996 final rule entitled "Milk in the Iowa Marketing Area: Revision of Pool Supply Plant Shipping Percentage" increased the "percentage of a supply plant's receipt that must be delivered to fluid milk plants to qualify a supply plant for pooling under the Iowa Federal milk order. The applicable percentage will be increased by 5 percentage points . . . for the months of September through November. . . . [T]he revision is in response to a request by a distributing plan that is regulated under the order."<sup>25</sup>
- The FAA issues hundreds of directives on aircraft worthiness, in response to specific airline incidents, that require various manufacturers and airlines to undertake maintenance and

repairs without any effort to justify the costs relative to the benefits or to look at the incidents over time rather than case by case.

- The Coast Guard issues hundreds of final rules related to special local events around the country, ranging from regattas to drawbridge closings. The value of publishing such rules in the *Federal Register* as a way to disseminate information, compared with other available methods, is questionable.
- The NOAA issues hundreds of fishing regulations based on local and regional fishery management plans, under the Magnuson-Stevens Fishery Conservation and Management Act, that restrict the days and times, as well as the number of boats allowed and the methods of fishing used, in order to prevent the depletion of fish stocks. Despite the costly micromanagement of marine resources, the fish stock continues to decline. This suggests a need to reexamine both the reason for the decline and the benefits of existing policy.

Lack of Clarity and Public Accountability. Examples of non-major rules with real benefits and costs, but little effort to provide helpful information to the public, include:

- The National Highway and Traffic Administration issued a final rule in June 1997 amending its motor vehicle content labeling rule issued in July 1994.<sup>26</sup> The 1994 rule implemented a law requiring that passenger motor vehicles be labeled with information about their domestic and foreign parts content. Over the next three years, regulated entities petitioned NHTSA to reconsider the rule to make it more flexible. The June 1997 revised final rule was not reviewed by OMB and contained no revised analysis of the costs or benefits of the program.<sup>27</sup>

23. *Federal Register*, Vol. 62, July 18, 1997, pp. 38052 and 38856.

24. For a thorough discussion of the rule's economic impact analysis, see Antonelli, "Can No One Stop the EPA?"

25. *Federal Register*, Vol. 61, October 29, 1996, p. 55731.

26. *Federal Register*, Vol. 59, July 21, 1994, p. 37294.



- The EPA issued a final rule in August 1997<sup>28</sup> to amend regulations, promulgated in December 1995,<sup>29</sup> which established emission guidelines applicable to existing municipal waste combustor units and new source performance standards applicable to these units. In April 1997, the U.S. Court of Appeals for the District of Columbia Circuit vacated parts of the rule as they apply to certain units. Although OMB reviewed the 1995 rule, it did not review the 1997 rule; further, the EPA did not provide any revised estimates of the costs and benefits of amending the rule to provide greater flexibility.
- The EPA issued a final rule in December 1997 establishing standards and requirements for the servicing of motor vehicle air conditioners that use refrigerants other than chlorofluorocarbon-12 (CFC-12).<sup>30</sup> The EPA had issued a rule controlling CFC-12 in July 1992.<sup>31</sup> In the section entitled “Supporting Analyses,” the EPA indicated that the OMB would review the rule as a significant regulatory action. EPA then stated that it had “prepared an analysis to assess the impact of this regulation,” citing the November 1995 economic analysis and indicating that it “is available for review in the public docket for this rulemaking” (which an interested party would have to go to the EPA office in Washington, D.C., to review). The summary analysis indicates that total annualized costs to affected industrial sectors will range from \$4.9 million to \$14.3 million. Although EPA indicates that a benefits analysis was done, it does not summarize any of the benefits.
- The FDA issued a final rule in December 1997<sup>32</sup> to amend its food additive regulations to allow irradiation of meat to control food-borne pathogens and extend shelf life. The FDA finalized this rule three years after the August 1994 filing of a petition<sup>33</sup> to allow the use of food irradiation. The FDA did not conduct any economic impact analysis to provide estimates of the costs or benefits of allowing food to be irradiated. In this case, the public has no estimate of the significant benefits likely to be derived from irradiation.
- The Department of Labor’s Employment and Training Administration issued an interim final rule (the rule skips the public notice and comment stage, and takes comment at the time it goes into effect) regarding welfare-to-work regulations to implement major reforms passed by the 104th Congress. This final rule concluded that “its provisions are consistent with the statement of regulatory philosophy and principles promulgated by the Executive Order [EO 12866]” and that it “will not have an adverse effect in a material way on the nation’s economy.”<sup>34</sup> But the public also would benefit from assessments of its positive effects.

Clearly, non-major rules can both impose costs and bestow benefits on Americans. However, many of these rules are not reviewed by OMB; and without such review and oversight, as the GAO recently has confirmed, many agencies simply do not provide the public with information on available alternatives and the costs and benefits associated with each option.

27. *Federal Register*, Vol. 62, June 23, 1997, p. 33756.

28. *Federal Register*, Vol. 62, August 25, 1997, p. 45116.

29. *Federal Register*, Vol. 60, December 19, 1995, p. 65387.

30. *Federal Register*, Vol. 62, December 30, 1997, p. 68026.

31. *Federal Register*, Vol. 57, July 14, 1992, p. 31242.

32. *Federal Register*, Vol. 62, December 3, 1997, p. 64107.

33. *Federal Register*, Vol. 59, August 25, 1994, p. 43848.

34. *Federal Register*, Vol. 62, November 18, 1997, p. 61588.



## Congress Must Fill in Gaps Left by OMB

The need for Congress to bring focus to its regulatory oversight responsibility is clear. As OIRA Administrator Sally Katzen stated before the Senate Committee on Governmental Affairs, “Regrettably, the regulatory system that has been built up over the past five decades . . . is subject to serious criticism . . . [on the grounds] that there are too many regulations, that many are excessively burdensome, [and] that many do not ultimately provide the intended benefits.”<sup>35</sup> But recent efforts by the White House to block Congress’s efforts to oversee and improve the federal regulatory system—such as Administration testimony regarding implementation of the provisions in the Kyoto Protocol on global warming through regulatory policy in the absence of a Senate-ratified treaty—suggest that Congress needs to establish its own review mechanisms.<sup>36</sup>

The Administration’s regulatory philosophy has been one of “reaffirm[ing] the primacy of Federal agencies in the regulatory decisionmaking process,” thereby subordinating OMB’s role to that of the regulatory agencies. This philosophy reflects a fundamental misunderstanding of the public’s concerns about agencies’ abuse of discretion and power over those whom they regulate.

Overall, the Clinton Administration’s rulemaking record is proving to be worse than the Bush Administration’s, and far worse than the Reagan Administration’s. According to the *Federal Register*, the number of final rule documents published in 1996 was the highest since 1984.<sup>37</sup> Since Presi-

dent Clinton took office, OMB has dramatically reduced the number of rules it will review before they can be published for comment or take effect. Between 1993 and 1994, the number of rules reviewed dropped from more than 2,100 to about 1,100. By the end of 1996, the number had dropped to just under 500, even though the agencies issued close to 4,000 rules that year. The vast majority of rules issued by agencies escaped any type of second look from *any* independent source.

In an effort to make the Administration appear more committed to reducing the regulatory burden, President Clinton on February 21, 1995, directed federal agencies to conduct a page-by-page review of existing regulations to determine which should be eliminated and which should be streamlined, updated, overhauled, or otherwise improved.

As of June 30, 1996, federal agencies said they had eliminated 11,569 pages of the Code of Federal Regulations (CFR) and had revised another 13,216 pages.<sup>38</sup> The GAO, however, concluded that most of these efforts did not appear to reduce the regulatory burden. Even worse, the GAO notes that “the page elimination totals that their agencies reported to OIRA did not take into account the pages that their agencies had *added* to the CFR while the eliminations were taking place. EPA and DOT estimated that they added more pages to the CFR than they removed during their page elimination initiatives.”<sup>39</sup>

Three recent White House reports highlight the Administration’s resistance to fundamental

35. Testimony of Sally Katzen, Administrator, Office of Information and Regulatory Affairs, before the Committee on Governmental Affairs, U.S. Senate, Senate Hearing 104-372, February 22, 1995.

36. See, for example, testimony of Janet Yellen, Chair, President’s Council of Economic Advisers, before the Committee on Small Business, U.S. House of Representatives, June 4, 1998; the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the Committee on Government Reform and Oversight, U.S. House of Representatives, May 19, 1998; and the Committee on International Relations, U.S. House of Representatives, May 13, 1998.

37. Clyde Wayne Crews, Jr., “Ten Thousand Commandments: A Policymaker’s Snapshot of the Federal Regulatory State, 1998,” Competitive Enterprise Institute, January 1998, pp. 11–12. The *Federal Register* tabulates all documents published in its final rules section, including notices, interpretations, and corrections.

38. U.S. General Accounting Office, *Regulatory Reform: Agencies’ Efforts to Eliminate and Revise Rules Yield Mixed Results*, GAO/ GGD-98-3, October 1997, p. 1.

39. *Ibid.*, p. 2 (emphasis added).



improvement of the federal regulatory system through enhanced public accountability:

- Regulatory Reform Executive Order 12866.<sup>40</sup> Under the requirements of EO 12866, OMB attempted in its December 1996 progress report to depict a more streamlined and efficient regulatory process. However, most of the success stories in the report involve improved cost-effectiveness achieved by alterations that occurred in the process between the proposed rule and the final rule, rather than by reevaluating regulatory goals and strategies.
- OMB Reports Under the Unfunded Mandates Reform Act (UMRA) of 1995. Congress requires the White House to report annually on compliance under Title II of UMRA. To comply with this requirement, OMB released annual reports in March 1996<sup>41</sup> and April 1997.<sup>42</sup> Noteworthy differences between the two reports highlight the change in the role of executive branch oversight. In its March 1996 report, OMB concluded that the agencies actually met their responsibilities under the law in a number of instances. But the April 1997 report merely described agency consultation efforts and analyses of rules. It did not offer any evidence that would indicate how well agencies met their obligations under the law. Rather than provide strong executive oversight of agency actions, the Administration chose to withhold from Congress information that might suggest that federal agencies are not complying fully with UMRA. By not calling attention to agency non-compliance with the law, OMB's April 1997 report undermines the intent of UMRA: to maximize the public accountability of federal regulators.
- Regulatory Accounting. In September 1996, as part of OMB's 1997 appropriations,<sup>43</sup> Congress directed that OMB submit a report by September 1997 providing (1) estimates of the total cost and benefits of federal regulatory programs; (2) estimates of the cost and benefits of economically significant rules (those imposing annual costs of \$100 million or more); (3) an assessment of the direct and indirect impact of federal rules on the private sector, as well as on federal, state, and local governments; and (4) recommendations for reforming or eliminating inefficient or ineffective federal programs. OMB's report provides no quantitative assessment of the indirect effects of federal regulation and no recommendations for regulatory reform. In addition, it estimates both the costs and benefits of all federal regulation to be roughly \$300 billion, which is well below such third-party estimates as that of Thomas Hopkins of the Rochester Institute of Technology. Hopkins estimates that the direct costs of these regulations will exceed \$700 billion annually.<sup>44</sup> One reason the OMB report probably understated costs is that it excludes costs associated with transfer effects (the shifting of costs from one party to another) and paperwork burdens on the grounds that "they are not what one usually thinks about when worrying about the cost of regulation."<sup>45</sup> These glaring omissions are consistent with the Administra-

40. U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, "More Benefits Fewer Burdens: Creating a Regulatory System that Works for the American People," December 1996.

41. U.S. Office of Management and Budget, "Agency Compliance with Title II of Unfunded Mandates Reform Act of 1995," Report to Congress from the Director of the Office of Management and Budget, March 22, 1996.

42. U.S. Office of Management and Budget, "Agency Compliance with Title II of Unfunded Mandates Reform Act of 1995," Second Annual Report to Congress from the Director of the Office of Management and Budget, April 1997.

43. Section 645(a) of the Treasury, Postal Services, and General Government Appropriations Act, 1997 (Public Law 104-208).

44. See Thomas D. Hopkins, "Regulatory Costs in Profile," *Policy Study* No. 132, Center for the Study of American Business, August 1996, p. 5.

45. U.S. Office of Management and Budget, "Draft Report to Congress on the Costs and Benefits of Federal Regulations, Notice and Request for Comments," *Federal Register*, July 22, 1997, p. 39361.



tion's unwillingness to hold agencies accountable for ineffective regulations or analyses.

In its efforts to restore the primacy of regulating agencies, the Clinton Administration has changed the role of OMB's executive office review. This suggests an even greater need for Congress—regardless of which political party is in the majority or minority—to make itself less dependent on OMB and federal agencies by creating a source for independent, objective information and analysis on federal rulemaking.

### THE ROLE OF A CONGRESSIONAL OFFICE OF REGULATORY ANALYSIS

Representatives Kelly and Talent and Senators Shelby and Bond have introduced the Congressional Office of Regulatory Analysis Creation Act to establish a nonpartisan congressional office that would provide information and analyses about rules to help Members make decisions under the Congressional Review Act. The Congressional Office of Regulatory Analysis (CORA) would function as the regulatory counterpart of the Congressional Budget Office, assuming the existing regulatory functions of CBO and GAO to avoid unnecessary duplication of effort.

As Robert Hahn, Resident Scholar at the American Enterprise Institute, and Robert Litan, Director of Economic Studies at the Brookings Institution, have noted,

Throughout this period of continuing regulatory change, the debates over regulatory policy have often been highly partisan and ill-informed. We believe attempts to depoliticize the process are needed. The proposed Congressional

Office of Regulatory Analysis represents a first step in the right direction. . . . [It] can provide a non-partisan assessment of the benefits and costs of regulation that can help in improving policy and educating the American public.<sup>46</sup>

The sponsors of H.R. 1704/S. 1675 believe that Congress is at an inherent disadvantage in its efforts to oversee regulatory activity. They propose funding CORA at \$5.2 million annually, a level roughly equivalent to that of OMB's Office of Information and Regulatory Affairs. This is small compared with the \$14 billion spent annually on regulatory activity by 50 federal agencies.<sup>47</sup> At the present time, Congress invests—at best—in a “handful of employees” to monitor federal regulatory activity.<sup>48</sup> The total direct costs of regulation have been estimated to range between \$300 billion and \$700 billion annually; finding \$5 million in the \$1.7 trillion federal budget to fund an office that would help Congress save rather than spend tax dollars should not be difficult.

H.R. 1704 and S. 1675 include proposals to transfer the functions of the General Accounting Office under the Congressional Review Act, and certain functions of the Congressional Budget Office under the Unfunded Mandates Reform Act, to CORA. The Speaker of the House and the Majority Leader of the Senate would appoint the director of CORA for a term of four years, with a three-term limit. The director could be removed by a concurrent resolution of Congress. As a non-partisan research arm of Congress, CORA would:

- Receive copies of rules issued by federal agencies (currently GAO's responsibility under the Congressional Review Act);

46. Robert W. Hahn, American Enterprise Institute, and Robert E. Litan, The Brookings Institution, joint testimony before the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the Committee on Government Reform and Oversight, U.S. House of Representatives, March 11, 1998, p. 4.

47. Christopher Douglass, Michael Orlando, and Melinda Warren, “Regulatory Changes and Trends: An Analysis of the 1998 Budget of the United States Government,” *Policy Brief* No. 182, Center for the Study of American Business, August 1997, Table A-5, p. 32.

48. *Congressional Office of Regulatory Analysis Creation Act*, Report 105-441, Committee on the Judiciary, U.S. House of Representatives, March 13, 1998, p. 7.



- Undertake an independent analysis of each major rule (currently not done for the legislative branch);
- As resources permit, undertake analyses of other rules requested by Members of Congress (currently not done for the legislative branch); and
- Produce an annual report on the total costs of regulation to the U.S. economy. This report would be the legislative version of the White House OMB report, which Congress required OMB to produce in September 1997 and September 1998.<sup>49</sup>

The legislation would be strengthened significantly, however, if CORA were required to report on the benefits of regulation as well the costs. The bills' sponsors believe a funding level of \$5.2 million annually would demonstrate that the main purpose of CORA is to review and oversee agency studies, not undertake original analyses on its own. According to the CBO's cost estimate of H.R. 1704, if CORA were to perform "rigorous, independent, and comprehensive regulatory analyses, we would expect that its costs would be a least \$30 million a year."<sup>50</sup> The CBO also reported that H.R. 1704 would not affect direct spending or receipts and that pay-as-you-go procedures would not apply.

## HOW CORA WOULD HELP CONGRESS CARRY OUT ITS DUTIES

The American people have much to lose if Congress remains unable to carry out its responsibilities effectively in overseeing the regulatory process, because federal agencies will not be held accountable for ensuring that Americans receive the highest levels of safety and protection for the money being spent.

Since 1994, Congress has taken incremental steps to improve the federal regulatory system

through such laws as the Unfunded Mandates Reform Act of 1995, the Congressional Review Act in the Small Business Regulatory Enforcement Fairness Act, and the OMB Regulatory Accounting Report. These efforts focused on expanding the information available to policymakers and the public about regulatory decisions and their potential impact. Because of these laws, for the first time:

- Members of Congress can utilize CBO analyses of the costs of each proposed federal mandate to help them understand the financial and economic impact of their decisions *before* they pass a law.
- Small businesses can challenge federal regulatory agencies. For example, on May 13, 1998, the U.S. District Court for the District of Columbia ruled against the Interior Department's Bureau of Land Management (BLM) on a rule that involved reclamation of mining lands. The court found that the BLM had violated the SBREFA. The BLM argued that the rule would not have a significant impact on a substantial number of small entities, and that it therefore did not have to conduct an analysis of the impact on small businesses as required by the Regulatory Flexibility Act of 1980. Judge June L. Green explained:

While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress.<sup>51</sup>

- The American people and Congress now have a record of the actual final regulations issued

49. This regulatory accounting report was part of the OMB's annual appropriations requirements for FY 1997 and FY 1998.

50. U.S. Congressional Budget Office, "Cost Estimate, H.R. 1704," March 13, 1998, p. 1.

51. Memorandum by June L. Green, U.S. District Court for the District of Columbia, in *Northwest Mining Association v. Bruce Babbitt, Secretary, U.S. Department of Interior, et al.*, Civil Action No. 97-1013, May 13, 1998, p. 15.



## USING THE STATES AS MODELS

As federal policymakers squabble over the authority of Congress to oversee the rulemaking process, and to check and balance the growth and cost of federal regulations, state legislatures have not hesitated to take responsibility for the regulatory process. Congress could learn from their experience. For example:

- Wisconsin. This state's administrative procedure and review statute may represent the best argument for Congress's ensuring that oversight of the rulemaking process is entirely within its power and authority. The Wisconsin statute reads: "The delegation of rule-making authority is intended to eliminate the necessity of establishing every administrative aspect of general public policy by legislation. *In doing so, however, the legislature reserves to itself: 1) the right to retract any delegation of rule-making authority; 2) the right to establish any aspect of general policy by legislation, notwithstanding any delegation of rule-making authority; 3) the right and responsibility to designate the method for rule promulgation, review and modification; 4) the right to delay or suspend the implementation of any rule or proposed rules under review by the legislature.*"<sup>1</sup>
- Washington. In 1995, the Washington legislature passed a law requiring state agencies to write rules in response to specific legislative intent.<sup>2</sup> These agencies now must receive direction from the legislature to initiate rule writing. The Regulatory Reform Act of 1995 mandates that, among other things, administrative rules must conform to legislative intent. Legislative oversight was strengthened by increasing the authority of the Joint Administrative Rules Committee, which may examine all documentation, issue subpoenas, and compel the attendance of witnesses.<sup>3</sup> According to a January 1996 report by the Washington Institute for Policy Studies, the state legislature also passed laws to tackle other regulatory problems, including tightening development permit review times and consolidating permitting processes.
- North Dakota. The North Dakota legislature gave its Administrative Rules Committee power to veto agency regulations in 1995. The law<sup>4</sup> states that the "committee on administrative rules may find that all or any portion of a rule is void."<sup>5</sup> It also includes six specific reasons for which the Rules Committee may object to an agency proposal, among them the absence of statutory authority, arbitrariness or capriciousness, and exceeding legislative intent. An agency may appeal a decision to the Legislative Council, whose 15 members oversee legislative activity when lawmakers are not in session.<sup>6</sup>

1. Wisconsin Statute §227.19 1(b) 1-4 (emphasis added).

2. Elaine Ramel Davis, "Washington State Regulatory Reform: Accomplishments and Comparisons," Washington Institute for Policy Studies, January 1996, p. 1.

3. *Ibid.*

4. N.D. Century Code, §28-32-03.3 (as amended, 1997).

5. N.D. Century Code, §28-32-03.3.1 (as amended, 1997).

6. Council of State Governments, Midwestern Office, "States Push for Regulatory Relief," *Rules & Review*, Winter 1995, p. 4.





by the federal government, and an estimate of the costs and benefits of federal regulation prepared by the White House and representing the federal regulatory agencies.

The establishment of a Congressional Office of Regulatory Analysis represents a logical and necessary next step. Two years after enactment of the Congressional Review Act, the GAO's database of all final regulations confirms that significant numbers of rules are issued annually by federal regulatory agencies. In addition, congressional experience with implementation of the UMRA, SBREFA, and CRA suggests the need for Congress to put in place a mechanism for coordinating, reviewing, and overseeing this activity.

A Congressional Office of Regulatory Analysis could ensure that the types of useful analyses and reports produced today by the Congressional Budget Office and General Accounting Office related to the budget and auditing of agency programs also could be produced for regulations. These agencies currently do not have the in-house expertise needed to analyze the economic impact of federal regulation. Examples of the types of information that Members of Congress could obtain from CORA include:

- Reports that highlight well in advance the major regulatory activity under development within agencies;<sup>52</sup>
- Crosscutting analyses of regulatory programs drawn from agency strategic plans and annual performance plans and prepared by agencies pursuant to the Government Performance and Results Act;
- Reports that review and analyze specific and complex regulatory issues, such as implementation of the Clean Air Act;
- Monthly bulletins on regulations submitted to Congress by agencies, with a summary of agency benefit and cost estimates, as available;
- Specialized requests for information drawn from a comprehensive database that tracks all rules sent to Congress (transferred from the GAO);
- An annual report on the benefits and costs of regulation; and
- Economic analyses of all major rules, as well as any other rule that a Member requests.

Today, a Member would find it extremely difficult to gather the basic information Congress needs to carry out its responsibilities in reviewing major rules. Members often are forced to engage in the very costly and time-consuming exercise of submitting detailed requests to federal agencies for basic information about rulemaking activity. Response to these requests can take weeks, months, or even years. This has long been a problem for both Republican and Democratic majorities in Congress.

To address this problem, Congress should establish an office of regulatory review, such as a CORA, whose priority would be to monitor the federal regulatory system for Congress. Currently, the CBO and GAO often have higher priority budget and program audit activities that prevent them from focusing effectively on the federal regulatory system.

## ANSWERING CORA'S CRITICS

### **CRITICISM #1: CORA interferes with executive branch rulemaking and the separation of powers.**

This criticism ignores Article I, Section 1 of the U.S. Constitution, which states that "All legislative powers herein granted shall be vested in a Congress of the United States." David Schoenbrod, professor of law at New York University and previously a litigator for the Natural Resources Defense Council, argues that this section means Congress cannot dele-

52. In much the same way the Joint Committee on Taxation reviews and summarizes the tax provisions in the President's annual budget, CORA could review the 1,500-page *Semiannual Agenda of Federal Regulatory and Deregulatory Actions*, which is published in the *Federal Register* every April and October. The Agenda presents, by agency, a listing of all future regulatory activity.



gate to any other body the power to make law.<sup>53</sup> Schoenbrod and others would go so far as to argue that Congress may not even delegate rulemaking and must approve all rules before they go into effect. Although applying a doctrine of non-delegation to Congress for rulemaking raises a number of interesting legal and practical issues, Congress's ultimate responsibility for ensuring that rules are consistent with the law and congressional intent is clear.<sup>54</sup> Finally, in the 1983 case of *INS v. Chadha*,<sup>55</sup> the Supreme Court declared invalid the ability of one house of Congress to disapprove an exercise of delegated authority. The establishment of CORA, and the fact that the Congressional Review Act requires both houses of Congress to act on a resolution of disapproval, would not conflict with any legal or constitutional guidelines.

**CRITICISM #2: CORA is duplicative and would create another government bureaucracy.**

Unlike many offices established to throw money at a problem, CORA would have a mission that is more akin to that of an agency's Office of Inspector General (OIG), which audits agency programs for waste, mismanagement, and abuse. CORA's responsibility to Congress would be to recommend how Congress could make smarter decisions; in all likelihood, it would help keep more of the hard-earned money of American consumers, taxpayers, employers, and employees from being wasted. Few Americans believe that the federal regulatory system is perfectly efficient, sensible, and devoid of waste and mismanagement. Bringing together the responsibilities of the

CBO and GAO under one office like CORA makes sense and would avoid duplication. Finally, the proposed \$5 million budget for CORA is tiny when compared with the \$300 billion to \$700 billion range of estimated annual costs of all regulation. Congress should fund such an office by reprioritizing existing government spending.

**CRITICISM #3: CORA would just be another way to interfere with important public health, safety, and environmental regulations.**

By OMB's own estimates, the costs of federal regulations are almost \$300 billion per year, and benefits are estimated to be roughly the same. However, a study by Robert Hahn of the American Enterprise Institute has shown that roughly one-half of the government's regulations would not pass a commonsense, peer-reviewed, cost-benefit standard.<sup>56</sup> There are some rules for which benefits exceed costs and others for which that is not likely to be the case. Because society has limited resources, it makes sense to do an even better job of targeting scarce resources to address the most serious problems or the greatest risks. Those who claim that it is impossible to put a price on life fail to understand that the issue is not putting a "price" on life; the issue is determining how much risk can be avoided by choosing one type of expenditure over another. A better appreciation of risks and costs led Congress to support *prioritizing* risks so that the nation's limited resources can be used to deal with the most serious threats to human health first.

There is an established body of literature that highlights how regulations can be

53. See David Schoenbrod, *Power Without Responsibility: How Congress Abuses the People Through Delegation* (New Haven, Conn.: Yale University Press, 1993).

54. Consistent with Congress's broad delegations of regulatory authority to the executive branch, numerous Supreme Court decisions have inferred a broad and encompassing power in the Congress to engage in oversight to enable it to carry out its legislative functions. See *Congressional Office of Regulatory Analysis Creation Act*, *op. cit.*

55. 462 U.S. 919 (1983).

56. See Robert W. Hahn, "Regulatory Reform: What Do the Government Numbers Tell Us?" in Robert Hahn, ed., *Risks, Costs, and Lives Saved: Getting Better Results from Regulation* (New York: Oxford University Press and AEI Press, 1996).



improved. For example, a 1994 Harvard study concluded that 60,000 lives are lost every year under the current system because resources are squandered to eliminate negligible risks rather than being used to protect the public from other risks that are much more serious.<sup>57</sup>

CORA's analyses of such risks would help Congress utilize more accurate information about the benefits and costs of a particular regulation, to ensure that the most serious threats to human health, safety, and the environment are addressed first.

## CONCLUSION

Congress is at an inherent disadvantage in its efforts to oversee federal regulatory activity. Faced with more than 8,600 new rules, Members and

their staffs cannot address the substance of each rule effectively. The establishment of a Congressional Office of Regulatory Analysis would represent the next logical step in legislators' efforts to improve the federal regulatory system in a way that fosters sensible reviews of rules based on facts, encourages greater public participation, and moves Congress and the White House away from becoming mired in politically charged but ill-informed debate. All Americans stand to benefit from a system of checks and balances that involves both the legislative branch, which writes the laws, and the executive branch agencies that must implement them.

—*Angela Antonelli is Director of The Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.*

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57. Tammy O. Tengs, "Optimizing Societal Investments in the Prevention of Premature Death," doctoral dissertation, School of Public Health, Harvard University, June 1994, p. 2.



**APPENDIX A**  
**GAO REPORTS ON MAJOR RULES,**  
**APRIL 1, 1996, TO APRIL 30, 1998**  
**DATE ISSUED; MAJOR RULE (REPORT NO.);**  
**CHAIRMEN OF COMMITTEES OF JURISDICTION IN SENATE/HOUSE<sup>58</sup>**

**1996 MAJOR RULES**

**Agriculture**

7/29/96; HAACP (OGC-96-31); Lugar/Roberts  
 9/23/96; Federal Crop Insurance Program: Risk Protection Endorsement (OGC-96-47); Lugar/Roberts  
 10/28/96; Dairy Tariff-Rate Import Quota Licensing (OGC-97-4); Lugar/Roberts  
 10/31/96; Certification Provisions of the Mickey Leland Childhood Hunger Relief Act (OGC-97-2); Lugar/Roberts  
 10/31/96; Food Stamp Program—Child Support Deduction (OGC-97-1); Lugar/Roberts  
 12/5/96; RHS—Section 502 and 504 (OGC-97-6); D'Amato/Leach

**Environmental Protection Agency**

7/5/96; CAA, Risk Management Programs (OGC 96-26); Chafee/Bliley  
 7/16/96; Certification Standards for Deposit Control Gasoline Additives (OGC-96-27); Chafee/Bliley  
 10/17/96; New Gasoline Spark-Ignition Marine Engines, Nonroad Compression Ignition Engines (OGC-96-45); Chafee/Bliley  
 11/4/96; Revisions to the Federal Test Procedure for Emissions from Motor Vehicles (OGC-96-42); Chafee/Bliley  
 12/11/96; Financial Assurance (OGC-97-7); Chafee/Bliley

**Federal Communications Commission**

6/25/96; Sharing of Cost of Microwave Relocation (OGC-96-14); Pressler/Bliley

7/2/96; Deregulate Equipment Authorization Requirements (OGC-96-21); Pressler/Bliley  
 7/24/96; Assessment and Collection of Regulatory Fees for FY 1996 (OGC-96-28); Pressler/Bliley  
 8/8/96; Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services (OGC-96-32); Pressler/Bliley  
 8/19/96; Compatibility with Enhanced 911 Emergency Calling Systems (OGC-96-34); Pressler/Bliley  
 8/29/96; Access to Telecommunications Equipment and Services by Persons with Disabilities, OGC-96-36); Pressler/Bliley  
 9/11/96; Provision of Roaming Services by Commercial Mobile Radio Service Providers (OGC-96-39); Pressler/Bliley  
 9/11/96; Children's Television Programming/Television Broadcast Stations (OGC-96-37); Pressler/Bliley  
 9/12/96; Flexible Service Offerings in the Commercial Mobile Radio Services (OGC-96-40); Pressler/Bliley  
 9/13/96; Reallocating Frequency Bands and Policies for Local Multipoint Distribution Service (OGC-96-44); Pressler/Bliley

**Federal Energy Regulatory Commission**

5/24/96; Open Access (OGC-96-12); Murkowski/Bliley  
 5/24/96; Open Access (OGC-96-13); Murkowski/Bliley

58. From <http://gao.gov/decisions/majrule/majrule.htm>.



### Federal Reserve

5/23/96; Reg T: Credit by Brokers and Dealers (OGC-96-15); D'Amato/Bliley

### Health and Human Services

8/21/96; FDA—Food Labeling, Nutrition Labeling, Small Business Exemption (OGC-96-35); Kassebaum/Bliley

9/12/96; Restrictions on the Sale and Distribution of Cigarettes and Smokeless Tobacco Products (OGC-96-38); Kassebaum/Bliley

9/13/96; Changes to Hospital Inpatient PPS and FY 97 Rates (OGC-96-41); Roth/Gibbons

10/24/96; FDA—Medical Devices, Current GMP (OGC-97-3); Kassebaum/Bliley

11/8/96; Medicare—Inpatient Hospital (OGC-97-5); Roth/Archer

12/9/96; RBRVS, Physician Payment Fee Schedule Update (OGC-97-9); Roth/Archer

### Housing and Urban Development

6/28/96; Regulation X (OGC-96-22); D'Amato/Leach

8/8/96; Single Family Mortgage Insurance (OGC-96-33); D'Amato/Leach

### Interior

7/5/96; Indian Self-Determination Act—Contracts (OGC-96-23); McCain/Young

### Interior/HHS

10/3/96; FWS—Migratory Bird Hunting (OGC-96-48); Chafee/Young

10/9/96; FWS—Migratory Bird Hunting (OGC-96-46); Chafee/Young

10/15/96; FWS—Migratory Bird Hunting (OGC-96-50); McCain/Young

### Nuclear Regulatory Commission

4/26/96; Revision of Fee Schedules (OGC-96-9); Chafee/Bliley

### Securities and Exchange Commission

9/26/96; Limit Order Display Rules (OGC-96-43); D'Amato/Bliley

### Transportation

5/7/96; CAFE—Light Trucks (OGC-96-11); Pressler/Bliley

### Veterans Affairs

6/6/96; VA Disability Compensation (OGC-96-20); Simpson/Stump

## 1997 MAJOR RULES

### Agriculture

1/22/97; FCS—Child and Adult Care Food Program (OGC-97-15); Logan/Smith

3/6/97; FSA/CCC—Conservation Reserve Program—Long Term Policy (OGC-97-26); Lugar/Smith

5/21/97; APHIS—Karnal Bunt (OGC-97-44); Lugar/Smith

5/27/97; APHIS—Importation of Pork from Sonora, Mexico (OGC-97-43); Lugar/Smith

5/30/97; FSA—Amendments to Peanut Poundage Quota Regulations (OGC-97-49); Lugar/Smith

6/12/97; CCC—Environmental Quality Incentives Program (OGC-97-50); Lugar/Smith

7/9/97; APHIS—Importation of Beef from Argentina (OGC-97-52); Lugar/Smith

### Commerce

1/13/97; Encryption Items Transferred from the U.S. Munitions List to the Commerce Control List (OGC-97-12); Pressler/Bliley

### Energy

9/8/97; Energy Conservation Program for Consumer (OGC-97-61); Murkowski/Bliley/Bumpers/Dingell

11/21/97; Energy Conservation Program for Consumer (OGC-98-13); Murkowski/Bliley/Bumpers/Dingell



### **Environmental Protection Agency**

- 1/3/97; Nitrogen Oxide Emission Reduction Program (OGC-97-8); Chafee/Bliley
- 5/15/97; Addition of Facilities in Certain Industry Sectors, TRI, Community Right to Know (OGC-97-41); Chafee/Bliley
- 6/20/97; New Motor Vehicles—Voluntary Standards for Light-Duty Vehicles (OGC-97-45); Chafee/Bliley
- 8/4/97; NAAQS for PM and Ozone (OGC-97-56); Chafee/Bliley
- 10/1/97; Standards of Performance (OGC-98-1); Chafee/Baucus/Bliley/Dingell
- 10/29/97; Control of Emissions of Air (OGC-98-9); Chafee/Baucus/Bliley/Dingell

### **Federal Communications Commission**

- 2/14/97; Unlicensed NII Devices in 5 GHz Frequency Range (OGC-97-19); McCain/Bliley
- 3/21/97; Future Development of Paging Systems (OGC-97-31); McCain/Bliley
- 4/9/97 Broadcast Services, TV Transmission Standards (OGC-97-18); McCain/Bliley
- 4/15/97; Provision of the Use of 220–222 MHz Band by Private Land Mobile Radio Service (OGC-97-35); McCain/Bliley
- 5/1/97; Use of 28 GHz and 31 GHz Bands for Local Multipoint Distribution Service (OGC-97-40); McCain/Bliley
- 7/28/97; Assessment and Collection of Regulatory Fees for FY 1997 (OGC-96-53); McCain/Bliley
- 9/22/97; FCC International Settlement (OGC-97-63); McCain/Hollings/Bliley/Dingell
- 10/1/97; The Local Multipoint (OGC-98-3); McCain/Hollings/Bliley/Dingell
- 11/12/97; Non-Voice (OGC-98-11); McCain/Hollings/Bliley/Dingell
- 12/1/97; Ka-Band Satellite Application and Licensing Procedure (OGC-98-15); McCain/Hollings/Bliley/Dingell
- 12/16/97; Non-US-Licensed Satellites Providing Domestic and Int'l Service in US (OGC-98-18); McCain/Hollings/Bliley/Dingell

12/18/97; Foreign Participation in US Telecomm Market (OGC-98-19); McCain/Hollings/Bliley/Dingell

12/22/97; FCC: Competitive Service Safeguards for Local Exchange Carrier Provision of Section 601(d) of Telecomm Act of 1996 (OGC-98-21); McCain/Hollings/Bliley/Dingell

### **Federal Reserve**

3/12/97; Bank Holding Companies and Change in Bank Control (OGC-97-28); D'Amato/Leach

### **Health and Human Services**

- 4/24/97; Individual Market Health Insurance Reform, Portability from Group to Individual Coverage, etc. (OGC-97-38); Jeffords/Bliley
- 4/24/97; Health Insurance Portability for Group Health Plans (OGC-97-39); Roth/Jeffords/Bliley/Goodling/Archer
- 6/24/97; Substances Prohibited from Use in Animal Feed, Animal Proteins in Ruminant Feed (OGC-97-51); Jeffords/Bliley
- 9/17/97; Health Care Financing Administration (OGC-97-62); Roth/Moynihan/Archer/Rangel
- 9/30/97; Health Care Financing, Medicaid Program (OGC-97-64); Roth/Moynihan/Bliley/Dingell
- 11/12/97; Health Care Financing (OGC-98-10); Roth/Moynihan/Bliley/Dingell/Archer/Rangel
- 11/26/97; FDA: Quality Mammography Standards (OGC-98-14); Jeffords/Kennedy/Bliley/Dingell

### **Housing and Urban Development**

- 2/21/97; Sale of HUD-Held Single Family Mortgages (OGC-97-21); D'Amato/Leach
- 12/9/97; HUD: Single Family Mortgage Insurance—Loss Mitigation Procedures (OGC-98-17); D'Amato/Sarbanes/Leach/Gonzalez

### **Interior**

- 9/4/97; Department of the Interior, Migratory Bird Hunting (OGC-97-58); Chafee/Baucus/Young/Miller
- 9/9/97; Migratory Bird Hunting (OGC-97-60); Campbell/Inouye/Young/Miller



10/14/97; Migratory Bird Hunting, Final (OGC-98-2); Chafee/Baucus/Young/Miller

### Justice

3/28/97; Inspection and Expedited Removal of Aliens (OGC-97-32); Hatch/Hyde  
10/29/97; DOJ, Immigration and Naturalization Service (OGC-98-8); Hatch/Leahy/Hyde/Conyers

### Labor

1/16/97; ESA: Service Contract Act (OGC-97-14); Jeffords/Goodling  
1/27/97; Methylene Chloride (OCG-97-17); Jeffords/Goodling

### Securities and Exchange Commission

1/16/97; Anti-Manipulation Rules Concerning Securities Offerings (OGC-97-11); D'Amato/Gonzalez  
2/25/97; Disclosure of Accounting Policies for Derivative Financial Instruments and Derivative Commodity Instruments (OGC-97-20); D'Amato/Bliley

2/25/97; Reporting Requirements for Brokers or Dealers (OGC-97-22); D'Amato/Bliley  
3/11/97; Revision of Holding Period Requirements (OGC-97-27); D'Amato/Bliley  
4/24/97; Privately Offered Investment Companies (OGC-97-37); D'Amato/Bliley  
8/20/97; SEC, Exemption for the Acquisition of Securities (OGC-97-57); D'Amato/Sarbanes/Bliley/Dingell

### Social Security Administration

2/25/97; Cycling Payments of Social Security Benefits (OGC-97-24); Roth/Archer  
2/26/97; SSI, Determining Disability for a Child Under Age 18 (OGC-97-23); Roth/Archer

### Transportation

4/2/97; Federal Motor Vehicle Safety Standards, Occupant Crash Protection (OGC-97-33); McCain/Bliley  
4/18/97; Light Truck Average Fuel Economy Standard Model Year 1999 (OGC-97-36); McCain/Shuster

## 1998 MAJOR RULES

### Agriculture

3/11/98; Child and Adult Care Food Program, Improved Targeting of Day Care Home Reimbursements (OGC-98-32); Lugar/Harkin/Goodling/Clay  
3/11/98; Child Nutrition and WIC Reauthorization Act Amendments (OGC-98-34); Lugar/Harkin/Goodling/Clay

### Commerce

5/28/98; NOAA: Magnuson-Stevens Act Provisions, National Standard Guidelines (OCG-98-51); McCain/Hollings/Young/Miller

### Environmental Protection Agency

4/29/98; Emission Standards for Locomotives and Locomotive Engines (OGC-04-6); Chafee/Bliley

4/29/98; National Emission Standards for Hazardous Air for Source Categories (OCG-98-45); Chafee/Baucus/Bliley/Dingell

### Federal Communications Commission

1/27/98; Competitive Bidding Procedures (OGC-98-26); McCain/Hollings/Bliley/Dingell  
2/23/98; Service and Auction Rules for the 38.6–40.0 GHz Frequency Band (OGC-98-29); McCain/Hollings/Bliley/Dingell  
2/25/98; Reallocation of TV Channels 60–69, the 746–806 MHz Band (OGC-98-31); McCain/Hollings/Bliley/Dingell  
4/23/98; Installment Payment Financing for Personal Comm. Services (PCS) Licensees (OCG-98-43); McCain/Hollings/Bliley/Dingell  
5/28/98; Rules and Policies for Local Multipoint Dist. Service and for Fixed Satellite Services (OCG-98-53); McCain/Hollings/Bliley/Dingell



6/8/98; Equipment Authorization for Digital Devices (OCG-98-54); McCain/Hollings/Bliley/Dingell

### Health and Human Services

1/15/98; Interim Rules for Mental Health Parity (OCG-98-22); Roth/Moynihan/Bliley/Dingell/Goodling/Clay/Archer/Rangel

1/27/98; Schedule of Limits on Home Health Agency Costs Per Visit (OCG-98-25); Roth/Moynihan/Bliley/Dingell/Archer/Rangel

2/9/98; Medicaid Program, State Allotments for Payment of Medicare Part B Premiums (OCG-98-28); Roth/Moynihan/Bliley/Dingell/Archer/Rangel

2/10/98; Limit on the Valuation of a Depreciable Asset Recognized as an Allowance for Depreciation and Interest on Capital Indebtedness (OCG-98-27); Roth/Moynihan/Bliley/Dingell/Archer/Rangel

2/23/98; Medicare and Medicaid Programs, Salary Equivalency Guidelines (OCG-98-30); Roth/Moynihan/Bliley/Dingell/Archer/Rangel

4/17/98; HRSA: Organ Procurement and Transplantation Network (OCG-98-41); Jeffords/Kennedy/Bliley/Dingell

4/24/98; HCFA: Medicare Program, Schedule of Per-Beneficiary Limitations on Home Health

Agency Costs for Cost Reporting Periods (OCG-98-44); Roth/Moynihan/Bliley/Dingell/Archer/Rangel

5/8/98; HCFA: Medicare Program, Scope of Medicare Benefits (OCG-98-47); Roth/Moynihan/Bliley/Dingell

5/27/98; HCFA: Medicare Program, Prospective Payment System (OCG-98-50); Roth/Moynihan/Bliley/Dingell

### Labor

1/23/98; Respiratory Protection (OCG-98-24); Jeffords/Kennedy/Goodling/Clay

### Securities and Exchange Commission

3/3/98; Reg. Form Used by Open-End Mgmt. Comp. and New Disclosure Option (OCG-98-40); D'Amato/Sarbanes/Bliley/Dingell

3/11/98; Offshore Offers and Sales (OCG-98-33); D'Amato/Sarbanes/Bliley/Dingell

4/3/98; Registration Form Used by Open-End Mgmt. Inv. Comp. and New Disc. Option (OCG-98-40); D'Amato/Sarbanes/Bliley/Dingell

### Transportation

4/17/98; NHTSA: Light Truck Average Fuel Economy Standard, Model Year 2000 (OCH-98-42); McCain/Hollings/Shuster/Oberstar





## APPENDIX B

## Federal Rules Sent to Congress Under the Congressional Review Act: October 1, 1996 – April 30, 1998

	1996			1997			1998			Totals		
	Major	Minor	Total	Major	Minor	Total	Major	Minor	Total	Major	Minor	Overall
<b>President of the United States</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>3</b>
EOP—Office of Management and Budget	0	0	0	0	2	2	0	1	1	0	3	3
<b>Department of Agriculture</b>	<b>4</b>	<b>66</b>	<b>70</b>	<b>7</b>	<b>244</b>	<b>251</b>	<b>2</b>	<b>141</b>	<b>143</b>	<b>13</b>	<b>451</b>	<b>464</b>
Department of Agriculture	3	2	5	2	6	8	0	2	2	5	10	15
Secretary of Agriculture	0	0	0	0	1	1	0	4	4	0	5	5
Rural Development Administration	1	2	3	0	10	10	0	2	2	1	14	15
Rural Electrification Administration	0	1	1	0	3	3	0	2	2	0	6	6
Agricultural Marketing Service	0	33	33	0	105	105	0	37	37	0	175	175
Animal and Plant Health Inspection Service	0	14	14	3	75	78	0	25	25	3	114	117
Food, Nutrition, and Consumer Services	0	0	0	0	3	3	2	2	4	2	5	7
Ag. Stabilization and Conservation Service	0	0	0	0	1	1	0	0	0	0	1	1
Commodity Credit Corporation	0	6	6	1	9	10	0	3	3	1	18	19
Foreign Agricultural Service	0	0	0	0	1	1	0	1	1	0	2	2
Agricultural Research Service	0	0	0	0	2	2	0	2	2	0	4	4
Forest Service	0	0	0	0	2	2	0	2	2	0	4	4
Cooperative State Research Service	0	0	0	0	3	3	0	0	0	0	3	3
Federal Crop Insurance Corporation	0	0	0	0	7	7	0	40	40	0	47	47
Food Safety & Inspection Service	0	0	0	0	1	1	0	12	12	0	13	13
Packers & Stockyarders Administration	0	2	2	0	2	2	0	1	1	0	5	5
Other Procurement Matters	0	1	1	0	0	0	0	1	1	0	2	2
Farm Service Agency	0	0	0	1	12	13	0	5	5	1	17	18
<b>Department of Commerce</b>	<b>1</b>	<b>60</b>	<b>61</b>	<b>0</b>	<b>276</b>	<b>276</b>	<b>0</b>	<b>97</b>	<b>97</b>	<b>1</b>	<b>433</b>	<b>434</b>
International Trade Administration	0	0	0	0	5	5	0	3	3	0	8	8
Minority Business Development Agency	0	0	0	0	0	0	0	2	2	0	2	2
National Institute of Standards and Tech.	0	1	1	0	1	1	0	4	4	0	6	6
Department of Commerce	0	0	0	0	1	1	0	80	80	0	81	81
Secretary of Commerce	0	1	1	0	1	1	0	0	0	0	2	2
NOAA	0	50	50	0	246	246	0	0	0	0	296	296
Patent and Trademark Office	0	3	3	0	3	3	0	1	1	0	7	7
Bureau of the Census	0	1	1	0	3	3	0	3	3	0	7	7
Bureau of Economic Analysis	0	0	0	0	2	2	0	1	1	0	3	3
Natl. Telecommunications and Info. Admin.	0	1	1	0	2	2	0	0	0	0	3	3
Bureau of Export Administration	1	3	4	0	11	11	0	2	2	1	16	17
Economic and Statistics Administration	0	0	0	0	1	1	0	1	1	0	2	2
<b>Dept. of Health &amp; Human Services</b>	<b>4</b>	<b>29</b>	<b>33</b>	<b>6</b>	<b>164</b>	<b>170</b>	<b>7</b>	<b>48</b>	<b>55</b>	<b>17</b>	<b>241</b>	<b>258</b>
Department of Health & Human Services	2	0	2	0	1	1	0	0	0	2	1	3
Secretary of HHS	0	2	2	1	1	2	0	1	1	1	4	5
CDC and Prevention	0	1	1	0	1	1	0	1	1	0	3	3
Food and Drug Administration	1	12	13	2	144	146	0	34	34	3	190	193
Health Care Financing Administration	1	5	6	3	8	11	6	7	13	10	20	30
Health Resources and Services Admin.	0	1	1	0	1	1	1	0	1	1	2	3
Public Health Service	0	4	4	0	5	5	0	2	2	0	11	11
Office of Inspector General	0	1	1	0	0	0	0	2	2	0	3	3
Office of Child Support Enforcement	0	1	1	0	0	0	0	0	0	0	1	1
Agency for Health Care Pol. and Research	0	0	0	0	1	1	0	0	0	0	1	1
Administration for Children and Families	0	2	2	0	2	2	0	1	1	0	5	5

Source: U.S. General Accounting Office.


**Federal Rules Sent to Congress Under the Congressional Review Act: October 1, 1996 – April 30, 1998**

	1996			1997			1998			Totals		
	Major	Minor	Total	Major	Minor	Total	Major	Minor	Total	Major	Minor	Overall
<b>Dept. of Housing &amp; Urban Development</b>	<b>0</b>	<b>22</b>	<b>22</b>	<b>2</b>	<b>23</b>	<b>25</b>	<b>0</b>	<b>14</b>	<b>14</b>	<b>2</b>	<b>59</b>	<b>61</b>
Department of HUD	0	5	5	1	3	4	0	1	1	1	9	10
Secretary of HUD	0	6	6	1	9	10	0	2	2	1	17	18
Planning and Development	0	4	4	0	6	6	0	2	2	0	12	12
Fed. Housing Comm.	0	3	3	0	2	2	0	6	6	0	11	11
Policy Development and Research	0	0	0	0	1	1	0	1	1	0	2	2
Fair Housing and Equal Opportunity	0	0	0	0	1	1	0	0	0	0	1	1
Public & Indian Housing	0	1	1	0	1	1	0	1	1	0	3	3
Fed. Housing Enterprise Oversight	0	0	0	0	0	0	0	1	1	0	1	1
<b>Department of the Interior</b>	<b>0</b>	<b>27</b>	<b>27</b>	<b>6</b>	<b>109</b>	<b>115</b>	<b>0</b>	<b>38</b>	<b>38</b>	<b>6</b>	<b>174</b>	<b>180</b>
Secretary of the Interior	0	1	1	0	5	5	0	0	0	0	6	6
Office of Minerals Policy Research Analysis	0	3	3	0	9	9	0	0	0	0	12	12
United States Fish and Wildlife Service	0	12	12	6	40	46	0	12	12	6	64	70
National Park Service	0	1	1	0	5	5	0	1	1	0	7	7
Bureau of Indian Affairs	0	1	1	0	4	4	0	3	3	0	8	8
Bureau of Land Management	0	1	1	0	11	11	0	4	4	0	16	16
Office of Surface Mining Reclamation & Enforcement	0	7	7	0	32	32	0	15	15	0	54	54
U.S. Bureau of Reclamation	0	1	1	0	1	1	0	0	0	0	2	2
Minerals Management Service	0	0	0	0	2	2	0	3	3	0	5	5
<b>Department of Justice</b>	<b>0</b>	<b>13</b>	<b>13</b>	<b>2</b>	<b>62</b>	<b>64</b>	<b>0</b>	<b>20</b>	<b>20</b>	<b>2</b>	<b>95</b>	<b>97</b>
Department of Justice	0	1	1	0	2	2	0	1	1	0	4	4
Attorney General	0	0	0	0	2	2	0	0	0	0	2	2
Associate Att. General—Civil Rights Division	0	1	1	0	1	1	0	0	0	0	2	2
Criminal Division	0	0	0	0	1	1	0	0	0	0	1	1
Federal Bureau of Investigation	0	0	0	0	1	1	0	1	1	0	2	2
Associate Att. General Bureau of Prisons	0	3	3	0	11	11	0	2	2	0	16	16
Immigration and Naturalization Service	0	5	5	2	21	23	0	6	6	2	32	34
Drug Enforcement Administration	0	1	1	0	7	7	0	7	7	0	15	15
Exec. Office for Immigration Review	0	1	1	0	1	1	0	0	0	0	2	2
Federal Prison Industries	0	0	0	0	5	5	0	1	1	0	6	6
Office of Legislative Affairs	0	0	0	0	1	1	0	0	0	0	1	1
Executive Office for U.S. Trustees	0	0	0	0	2	2	0	0	0	0	2	2
Justice Management Division	0	0	0	0	0	0	0	1	1	0	1	1
Office of Justice Programs	0	1	1	0	7	7	0	1	1	0	9	9
<b>Department of Labor</b>	<b>0</b>	<b>6</b>	<b>6</b>	<b>2</b>	<b>24</b>	<b>26</b>	<b>1</b>	<b>15</b>	<b>16</b>	<b>3</b>	<b>45</b>	<b>48</b>
Department of Labor	0	0	0	1	0	1	0	0	0	1	0	1
Employment and Training Administration	0	2	2	0	6	6	0	7	7	0	15	15
Labor-Management Services Admin.	0	1	1	0	1	1	0	0	0	0	2	2
Employment Standards Administration	0	0	0	0	8	8	0	0	0	0	8	8
OSHA	0	2	2	1	3	4	1	3	4	2	8	10
Mine Safety and Health Administration	0	1	1	0	1	1	0	5	5	0	7	7
Pension and Welfare Benefits Admin.	0	0	0	0	5	5	0	0	0	0	5	5
<b>Department of State</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>9</b>	<b>9</b>	<b>0</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>19</b>	<b>19</b>
Consular Affairs	0	2	2	0	7	7	0	6	6	0	15	15
Politico Military Affairs	0	1	1	0	1	1	0	1	1	0	3	3
Office of the Chief Financial Officer	0	0	0	0	1	1	0	0	0	0	1	1

Source: U.S. General Accounting Office.



### Federal Rules Sent to Congress Under the Congressional Review Act: October 1, 1996 – April 30, 1998

	1996			1997			1998			Totals		
	Major	Minor	Total	Major	Minor	Total	Major	Minor	Total	Major	Minor	Overall
<b>Department of Transportation</b>	<b>0</b>	<b>234</b>	<b>234</b>	<b>2</b>	<b>1373</b>	<b>1375</b>	<b>1</b>	<b>602</b>	<b>603</b>	<b>3</b>	<b>2209</b>	<b>2212</b>
Secretary of Transportation	0	0	0	0	7	7	0	0	0	0	7	7
United States Coast Guard	0	23	23	0	472	472	0	100	100	0	595	595
Federal Aviation Administration	0	179	179	0	782	782	0	466	466	0	1427	1427
Federal Highway Administration	0	5	5	0	21	21	0	6	6	0	32	32
Federal Railroad Administration	0	5	5	0	5	5	0	3	3	0	13	13
Federal Transit Administration	0	1	1	0	2	2	0	0	0	0	3	3
St. Lawrence Seaway Development Corp.	0	1	1	0	1	1	0	0	0	0	2	2
Maritime Administration	0	2	2	0	3	3	0	2	2	0	7	7
National Highway Traffic Safety Admin.	0	8	8	2	25	27	1	10	11	3	43	46
Surface Transportation Board	0	3	3	0	14	14	0	3	3	0	20	20
Research and Special Programs Admin.	0	5	5	0	28	28	0	7	7	0	40	40
Office of the Secretary	0	2	2	0	13	13	0	4	4	0	19	19
Department of Transportation	0	0	0	0	0	0	0	1	1	0	1	1
<b>Department of the Treasury</b>	<b>0</b>	<b>120</b>	<b>120</b>	<b>1</b>	<b>326</b>	<b>327</b>	<b>0</b>	<b>130</b>	<b>130</b>	<b>1</b>	<b>576</b>	<b>577</b>
Department of the Treasury	0	0	0	0	2	2	0	1	1	0	3	3
Secretary of the Treasury	0	0	0	0	1	1	0	0	0	0	1	1
Office of the Comptroller of the Currency	0	7	7	0	6	6	0	3	3	0	16	16
U.S. Customs Service	0	0	0	0	14	14	0	16	16	0	30	30
Bureau of the Public Debt	0	5	5	0	12	12	0	3	3	0	20	20
Internal Revenue Service	0	96	96	1	254	255	0	94	94	1	444	445
Bureau of Alcohol, Tobacco and Firearms	0	1	1	0	7	7	0	4	4	0	12	12
Under Secretary for Finance	0	0	0	0	1	1	0	2	2	0	3	3
Under Secretary for International Affairs	0	0	0	0	1	1	0	0	0	0	1	1
Under Secretary for Enforcement	0	6	6	0	14	14	0	2	2	0	22	22
Office of Thrift Supervision	0	4	4	0	11	11	0	2	2	0	17	17
Financial Management Service	0	1	1	0	3	3	0	3	3	0	7	7
<b>Department of Energy</b>	<b>0</b>	<b>8</b>	<b>8</b>	<b>2</b>	<b>30</b>	<b>32</b>	<b>0</b>	<b>18</b>	<b>18</b>	<b>2</b>	<b>56</b>	<b>58</b>
Department of Energy	0	3	3	2	13	15	0	5	5	2	21	23
Office of the Secretary	0	0	0	0	0	0	0	1	1	0	1	1
Ass't Sec'y for Energy Effic. & Renewable Energy	0	0	0	0	6	6	0	2	2	0	8	8
Ass't Sec'y for Environment, Safety and Health	0	0	0	0	0	0	0	4	4	0	4	4
Federal Energy Regulatory Commission	0	1	1	0	7	7	0	0	0	0	8	8
Bonneville Power Administration	0	1	1	0	0	0	0	0	0	0	1	1
Ass't Sec'y for Defense Programs	0	1	1	0	0	0	0	0	0	0	1	1
Ass't Sec'y for Human Resources and Administration	0	2	2	0	0	0	0	0	0	0	2	2
Office of Hearings and Appeals	0	0	0	0	1	1	0	0	0	0	1	1
General Counsel	0	0	0	0	2	2	0	0	0	0	2	2
Western Area Power Administration	0	0	0	0	1	1	0	1	1	0	2	2
Office of Energy Research	0	0	0	0	0	0	0	1	1	0	1	1
Procurement of Contracts Mgmt.	0	0	0	0	0	0	0	3	3	0	3	3
Ass't Sec'y for Fossil Energy	0	0	0	0	0	0	0	1	1	0	1	1

Source: U.S. General Accounting Office.


**Federal Rules Sent to Congress Under the Congressional Review Act: October 1, 1996 – April 30, 1998**

	1996			1997			1998			Totals		
	Major	Minor	Total	Major	Minor	Total	Major	Minor	Total	Major	Minor	Overall
<b>Department of Education</b>	<b>0</b>	<b>8</b>	<b>8</b>	<b>0</b>	<b>33</b>	<b>33</b>	<b>0</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>48</b>	<b>48</b>
Department of Education	0	8	8	0	16	16	0	1	1	0	25	25
Secretary-Dept. of Education	0	0	0	0	1	1	0	1	1	0	2	2
Office of Education	0	0	0	0	0	0	0	1	1	0	1	1
Office of Vocational and Adult Education	0	0	0	0	1	1	0	0	0	0	1	1
Office of Special Educ. and Rehabilitative Service	0	0	0	0	5	5	0	2	2	0	7	7
Office of Educational Research and Improvement	0	0	0	0	2	2	0	0	0	0	2	2
Office of Postsecondary Education	0	0	0	0	1	1	0	0	0	0	1	1
Office of Elementary and Secondary Education	0	0	0	0	3	3	0	0	0	0	3	3
National Inst. on Disability and Rehabilitation Research	0	0	0	0	4	4	0	2	2	0	6	6
<b>Department of Veterans Affairs</b>	<b>0</b>	<b>10</b>	<b>10</b>	<b>0</b>	<b>43</b>	<b>43</b>	<b>0</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>60</b>	<b>60</b>
Veterans Affairs	0	5	5	0	36	36	0	6	6	0	47	47
Veterans Benefits Administration	0	3	3	0	6	6	0	0	0	0	9	9
Veterans Health Administration	0	2	2	0	1	1	0	1	1	0	4	4
<b>Independent Agencies</b>	<b>3</b>	<b>249</b>	<b>252</b>	<b>29</b>	<b>1155</b>	<b>1184</b>	<b>9</b>	<b>554</b>	<b>563</b>	<b>41</b>	<b>1958</b>	<b>1999</b>
Social Security Administration	0	3	3	2	4	6	0	7	7	2	14	16
Agency for International Development	0	0	0	0	0	0	0	7	7	0	7	7
Corporation for National and Community Services	0	0	0	0	0	0	0	1	1	0	1	1
Comm. for Purchase from . . . Blind or Disabled	0	14	14	0	68	68	0	15	15	0	97	97
Commodity Futures Trading Commission	0	3	3	0	12	12	0	4	4	0	19	19
Consumer Product Safety Commission	0	1	1	0	3	3	0	1	1	0	5	5
Environmental Protection Agency	2	102	104	5	514	519	2	245	247	9	861	870
Equal Employment Opportunity Commission	0	0	0	0	2	2	0	0	0	0	2	2
Farm Credit Administration	0	4	4	0	10	10	0	1	1	0	15	15
Farm Credit Assistance Board	0	0	0	0	1	1	0	0	0	0	1	1
Federal Communications Commission	0	51	51	13	218	231	4	72	76	17	341	358
Federal Deposit Insurance Corporation	0	6	6	0	10	10	0	4	4	0	20	20
Federal Emergency Management Agency	0	0	0	0	4	4	0	90	90	0	94	94
Federal Energy Regulatory Commission	0	1	1	0	2	2	0	1	1	0	4	4
Federal Election Commission	0	0	0	0	3	3	0	2	2	0	5	5
Federal Housing Finance Board	0	2	2	0	11	11	0	3	3	0	16	16
Federal Maritime Commission	0	1	1	0	1	1	0	1	1	0	3	3
Federal Labor Relations Society	0	0	0	0	0	0	0	1	1	0	1	1
Federal Reserve System	0	12	12	1	16	17	0	6	6	1	34	35
Federal Retirement Thrift Investment Board	0	3	3	0	9	9	0	2	2	0	14	14
Federal Trade Commission	0	8	8	0	9	9	0	5	5	0	22	22
General Services Administration	0	3	3	0	99	99	0	19	19	0	121	121
GSA Public Buildings Service	0	0	0	0	1	1	0	0	0	0	1	1
National Archives & Records Service	0	0	0	0	4	4	0	0	0	0	4	4
National Credit Union Administration	0	0	0	0	2	2	0	7	7	0	9	9
Nuclear Regulatory Commission	0	11	11	1	49	50	0	2	2	1	62	63
Panama Canal Commission	0	1	1	0	3	3	0	1	1	0	5	5
Pension Benefit Guaranty Corp.	0	6	6	0	20	20	0	8	8	0	34	34
Securities and Exchange Commission	1	5	6	7	36	43	3	8	11	11	49	60
Small Business Administration	0	0	0	0	0	0	0	5	5	0	5	5
U.S. Office of Personnel Management	0	6	6	0	34	34	0	6	6	0	46	46
OPM Bureau of Ret.	0	1	1	0	0	0	0	0	0	0	1	1

Source: U.S. General Accounting Office.



**Federal Rules Sent to Congress Under the Congressional Review Act: October 1, 1996 – April 30, 1998**

	1996			1997			1998			Totals		
	Major	Minor	Total	Major	Minor	Total	Major	Minor	Total	Major	Minor	Overall
<b>Independent Agencies</b>	<b>3</b>	<b>249</b>	<b>252</b>	<b>29</b>	<b>1155</b>	<b>1184</b>	<b>9</b>	<b>554</b>	<b>563</b>	<b>41</b>	<b>1958</b>	<b>1999</b>
OPM Bureau of Training	0	1	1	0	0	0	0	0	0	0	1	1
GSA—Board of Contract Appeals	0	1	1	0	0	0	0	0	0	0	1	1
Thrift Depositor Protection Oversight Board	0	1	1	0	0	0	0	0	0	0	1	1
U.S. International Trade Commission	0	0	0	0	1	1	0	0	0	0	1	1
U.S. Information Agency	0	0	0	0	4	4	0	0	0	0	4	4
OPM—Bureau of Intergov. Personnel Programs	0	0	0	0	0	0	0	1	1	0	1	1
OPM—Bureau of Personnel Investigations	0	0	0	0	0	0	0	1	1	0	1	1
Misc. Boards	0	0	0	0	0	0	0	3	3	0	3	3
National Aeronautics and Space Administration	0	0	0	0	0	0	0	23	23	0	23	23
Office of Government Ethics	0	2	2	0	5	5	0	2	2	0	9	9
<b>Department of Defense</b>	<b>0</b>	<b>11</b>	<b>11</b>	<b>0</b>	<b>61</b>	<b>61</b>	<b>0</b>	<b>19</b>	<b>19</b>	<b>0</b>	<b>91</b>	<b>91</b>
Department of Defense	0	1	1	0	5	5	0	1	1	0	7	7
Secretary of Defense	0	7	7	0	11	11	0	10	10	0	28	28
Defense Acquisition Regulatory Council	0	1	1	0	43	43	0	8	8	0	52	52
Civ. Health & Med. Program of the Uniformed Serv.	0	1	1	0	1	1	0	0	0	0	2	2
Washington Headquarters Services	0	1	1				0	0	0	0	1	1
Office of Civ. Health & Med. Prog. of the Uniformed	0	0	0	0	1	1	0	0	0	0	1	1
<b>Army</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>6</b>
Army—Assistant Secretary (Civil Works)	0	1	1				0	0	0	0	1	1
Army—Chief of Engineers (Civil)	0	0	0	0	1	1	0	0	0	0	1	1
Army—U.S. Army Corps of Engineers	0	1	1	0	3	3	0	0	0	0	4	4
										0	0	0
<b>Navy</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>
Department of the Navy	0	0	0	0	0	0	0	1	1	0	1	1
<b>Subtotal: 10/1/96–4/30/98</b>	<b>12</b>	<b>868</b>	<b>880</b>	<b>59</b>	<b>3938</b>	<b>3997</b>	<b>20</b>	<b>1719</b>	<b>1739</b>	<b>126</b>	<b>8549</b>	<b>8675</b>
<b>Subtotal: 4/1/96–9/30/96*</b>	<b>35</b>	<b>2024</b>	<b>2059</b>									

Note: \*GAO did not maintain this database prior to 10/1/96. GAO only has a total count of major and non-major rules for all agencies prior to this date.  
 Source: U.S. General Accounting Office.