

## The Rising Tide of Red Tape

### THE ISSUE:

Most Americans are painfully aware of the amount of taxes they pay, but explicit taxes and spending are only part of the total burden that government places on Americans. The rest comes in the form of hidden taxes imposed by government regulations. These “regulatory taxes” appear on no budget or balance sheet but are very real: They cost Americans an estimated \$1 trillion or more each year, and these costs are increasing. In fiscal year 2009, new regulations costing more than \$13 billion per year were adopted by the Bush and Obama Administrations, the highest annual total since 1992. Much more is in the works. Anyone who uses electricity, drives a car, has a job, visits a doctor, owns stocks, or patronizes a bank will be affected by the additional regulation being advanced by the Obama Administration. The effects of such a regulatory tsunami could be disastrous—destroying jobs, threatening enterprises, and deterring new investment.

### THE FACTS:

- **Record-High Regulatory Page Count.** The Code of Federal Regulations, a compendium of all existing federal rules, hit a record high of 163,333 pages in 2009, an increase of some 22,000 since the beginning of the decade. In 2008, the CFR weighed in at 157,974 pages, having increased by 16,693 pages since the start of the George W. Bush Administration.
- **Ballooning Regulatory Agency Budgets.** President Obama’s fiscal 2011 budget calls for direct expenditures by regulatory agencies of over \$59 billion, an increase of 4.1 percent over fiscal 2010, and 8.9 percent over fiscal 2009.
- **Flood of New Rules.** This year, the Obama Administration has adopted some 25 major new regulations.

That is higher than the full-year total for all but one year since 1997.

- **Trillion-Dollar Cost.** According to a 2005 study by the Small Business Administration, the total burden of federal regulation is some \$1.1 trillion—more than Americans pay in personal income taxes each year.
- **Major New Regulatory Regimes Created.** New regulatory threats are coming from a variety of areas. Two of the biggest areas of increase have been health care and financial reform, both of which were the subject of massive new regulatory legislation passed this year. Other areas of concern include energy use, which is under threat from climate change legislation, and the Internet, which is the target of Federal Communication Commission regulatory efforts.

### THE SOLUTIONS:

- **Establish a Sunset Date for New Federal Regulations.** To prevent outdated regulations from being left in place in perpetuity, new regulations should, as a matter of routine, include a “sunset” date by which they would expire automatically unless specifically renewed by lawmakers. Such automatic sunset clauses already exist in some cases. Congress should make them the rule, and not the exception.
- **Protect the Office of Information and Regulatory Affairs (OIRA).** Over the past 30 years, OIRA has played a key role in Republican and Democratic Administrations, scrutinizing proposed new regulations, checking their effectiveness and cost, and providing an outside check on agencies’ regulatory agendas. This institutional role is a vital one and should be preserved. Congress and the Administration should reject attempts to reduce OIRA’s role or authority.

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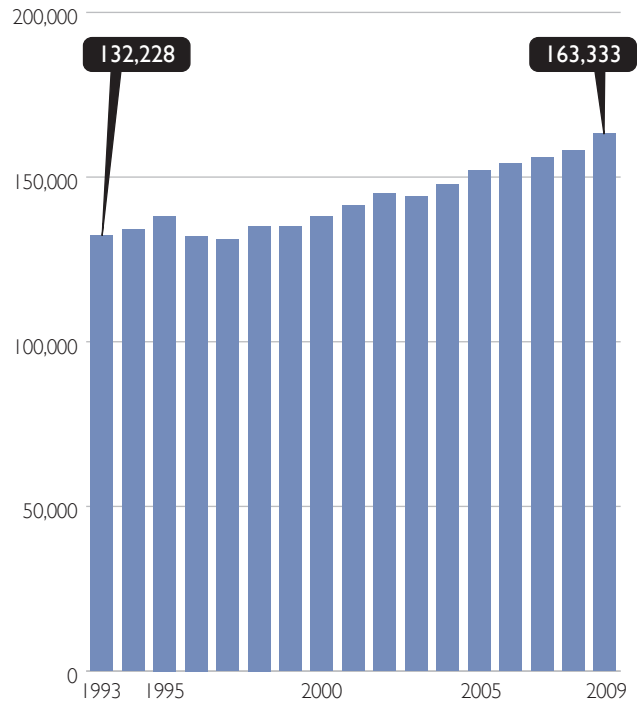
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- Establish a Congressional Regulation Office.** Congress receives detailed information from the Congressional Budget Office on the state of the budget and on proposals that would affect the budget, but it has no independent source of information on regulatory programs. A nonpartisan Congressional Regulation Office would help to fill this gap. Such an office could review the regulatory impact of legislative proposals and report on the cost and effectiveness of rules adopted by agencies. In this way, a Congressional Regulation Office would act as both a complement and a counterweight to OIRA.
- Repeal New Health Care and Financial Services Regulations.** The regulatory regimes placed in President Obama's health care reform and financial regulation bills were a step backward for consumers and the economy, and imposed unnecessary regulatory costs or taxes on American businesses and families. Congress should repeal both and adopt market-based solutions in their stead.

## Code of Federal Regulations Has Grown 24 Percent Since 1993

NUMBER OF TOTAL PAGES IN THE COMPLETE CODE OF FEDERAL REGULATIONS



Source: National Archives and Records Administration, Code of Federal Regulations, at <http://www.gpoaccess.gov/cfr/> (August 2, 2010).

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