



Death by a Thousand Regulations: The Biden Administration's Campaign to Bury America in Red Tape

Committee on Oversight and Accountability

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The Framers sought to secure individual liberty by preventing too much power in too few hands. Our Constitution limits the reach of the federal government—legitimate power is delegated by the people and enumerated in the Constitution.

Through the years, however, Congress has unlawfully delegated lawmaking power to executive agencies, concentrating power in the hands of the politically unaccountable. When presidential administrations cannot get through Congress, they circumvent our elected representatives and push their policy agenda by using old statutes to make new regulations.¹ As a result, unelected bureaucrats in D.C. wield a massive amount of control over the everyday lives of Americans across the country.

The volume of federal regulations is overwhelming, making it impossible for a person to know and follow every rule to which they are subject. The centralization of power has spawned the regulatory state, and it continues to grow with no sign of slowing down.

President Biden is not the first president to abuse regulatory authority, but he is shattering records. During his first year in office, agencies finalized 69 regulations that carried an annual price tag of at least a \$100 million.² And nearly 75,000 pages of new and proposed rules, executive orders, presidential proclamations, and agency notices were added to the Federal Register.³ The Biden administration continued its regulatory spending spree in 2022, proposing more than \$1 trillion in new regulations.⁴

The national debt has soared to more than \$31.9 trillion, and the cost to federal taxpayers to administer and enforce federal regulations has more than tripled since 2000.⁵⁻⁶ Direct costs to create and enforce regulations only tell part of the story, as Americans spend more than 10 billion hours on regulatory compliance paperwork alone, costing more than \$140 billion every year.⁷ Along with the loss of personal freedom, federal regulations now cost Americans roughly \$2 trillion per year.⁸⁻⁹⁻¹⁰⁻¹¹⁻¹²

We did not get here over night, and there is no magic bullet for the regulatory state. There is, however, a tested and proven policy to rein in federal overreach and prevent unelected bureaucrats from running the country. States have been proactive in addressing bureaucratic overreach, and Congress could learn from the laborites of democracy.

Florida requires legislative approval of million-dollar rules before they can become effective.¹³ In practice, Florida legislators must affirmatively support expensive rules before they are imposed on taxpayers. Wisconsin boasts a similar policy, and states from Utah to Maine have implemented policies that require a form of legislative approval for regulations.¹⁴

At the federal level, lawmakers should pass the Regulations from the Executive in Need of Scrutiny (REINS) Act to require legislative approval of major regulations—those with an annual economic

impact of at least \$100 million—before they are implemented. The REINS Act would help restore political accountability by requiring an up-or-down vote by Congress on costly regulations.

Executives at both the federal and state levels have launched initiatives to cut red tape, but robust regulatory reform requires more than deregulation. The REINS Act would help stop regulations before they become a problem and help protect deregulatory efforts at the executive level. In addition to combatting the worst regulations, Florida's policy has helped to tamp down the state's regulatory burden by slowing the overall growth of government. Since enacting its policy in 2010, Florida has experienced a steady decline in new proposed rules.¹⁵ The same would apply to the federal regulatory process under the REINS Act.

Right now, the regulatory process is on the side of bureaucrats. Under the status quo, proposed rules move forward unless something steps in to stop it. The REINS Act reverses the regulatory momentum, forcing legislators to vote on the most-expensive rules. The policy would change the game by requiring agencies to face elected lawmakers before their regulations can have the force and effect of law. With REINS, Congress can follow the lead of state lawmakers and reverse the runaway regulatory state.

¹ Alli Fick and Haley Holik, "How lawmakers can rein in regulations like the student loan bailout," Foundation for Government Accountability (2023), <https://thefga.org/research/lawmakers-can-rein-in-regulations-like-student-loan-bailout>.

² Jonathan Ingram et al., "Congress must rein in President Biden's regulatory spending spree to tame inflation," Foundation for Government Accountability (2022), <https://thefga.org/research/congress-must-rein-spending-to-tame-inflation>.

³ Ibid.

⁴ Foundation for Government Accountability, "See for yourself: Biden's regulatory spending spree is out of control," (2023), <https://thefga.org/one-pagers/see-for-yourself-bidens-regulatory-spre-is-out-of-control/>.

⁵ "US national debt," US Debt Clock.org (2023), <https://www.usdebtclock.org>.

⁶ Mark Febrizio and Melinda Warren, "Regulators' budget: Overall spending and staffing remain stable – An analysis of the U.S. budget for fiscal years 1960 through 2021," Weidenbaum Center on the Economy, Government, and Public Policy and the George Washington University Regulatory Studies Center (2020), <https://regulatorystudies.columbian.gwu.edu/regulators-budget-overall-spending-and-staffing-remain-stable>.

⁷ Office of Information and Regulatory Affairs, "Inventory of currently approved information collections: Government-wide totals for active information collections," Office of Management and Budget (2022), <https://www.reginfo.gov/public/do/PRAReport?operation=11>.

⁸ The National Association of Manufacturers estimated total federal regulatory costs at \$2 trillion in 2012. See, e.g., W. Mark Crain and Nicole V. Crain, "The cost of federal regulation to the U.S. economy, manufacturing, and small business," National Association of Manufacturers (2014), <https://www.nam.org/wp-content/uploads/2019/05/Federal-Regulation-Full-Study.pdf>.

⁹ The Small Business Administration estimated total federal regulatory costs at \$1.75 trillion in 2008. See, e.g., Nicole V. Crain and W. Mark Crain, "The impact of regulatory costs on small firms," Small Business Administration (2010), <https://web.archive.org/web/20101202043257/http://www.sba.gov/advo/research/rs371tot.pdf>.

¹⁰ The Competitive Enterprise institute estimated total federal regulatory costs at more than \$1.9 trillion in 2020. See, e.g., Clyde Wayne Crews Jr., "Ten thousand commandments: An annual snapshot of the federal regulatory state," Competitive Enterprise Institute (2021), https://cei.org/wp-content/uploads/2021/06/Ten_Thousand_Commandments_2021.pdf.

¹¹ Economists estimate that growth in federal regulation since 1949 had reduced economic output in 2011 by nearly \$40 trillion. See, e.g., John W. Dawson and John J. Seater, "Federal regulation and aggregate economic growth," Journal of Economic Growth (2013), <https://link.springer.com/article/10.1007/s10887-013-9088-y>.

¹² Economists estimate that growth in federal regulation since 1980 had reduced economic output in 2012 by \$4 trillion. See, e.g., Bentley Coffey et al., "The cumulative cost of regulations," Review of Economic Dynamics (2020), <https://www.sciencedirect.com/science/article/abs/pii/S1094202520300223>.

¹³ Haley Holik, "Why Florida is a national model for regulatory reform," Foundation for Government Accountability (2022), <https://thefga.org/paper/florida-is-a-national-model-for-regulatory-reform/>.

¹⁴ Jonathan Ingram et al., "Congress must rein in President Biden's regulatory spending spree to tame inflation," Foundation for Government Accountability (2022), <https://thefga.org/research/congress-must-rein-spending-to-tame-inflation>.

¹⁵ Haley Holik, "How legislative and executive oversight helps Florida cut and control red tape," Foundation for Government Accountability (2023), <https://thefga.org/research/legislative-executive-oversight-helps-florida-cut-control-red-tape/>.