



2015 Record-breaking Year for Fedgov's New and Proposed Regulations

According to a December 30 report by the Competitive Enterprise Institute (CEI), 2015 will earn the dubious distinction of being an all-time record-breaking year for the highest number of new federal regulations. When the report was issued just one day before the end of the year, the *Federal Register* — which contains government agency rules or proposed new rules and regulations — clocked in at a staggering 81,611 pages. Six of the seven years with the most regulations on record have been under President Obama, with the 2010 *Federal Register* holding the previous record at a massive 81,405 pages.



Contained in the Leviathan of this year's *Register* are 3,378 final rules, regulations, and notices. According to CEI Vice President for Policy Clyde Crews, in addition to those final rules, there are another 2,334 proposed rules that are in various stages of deliberation. Additionally, President Obama has handed down 29 executive orders and 31 executive memoranda — altogether an astounding volume of regulatory madness to foist onto the citizenry.

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Among the most costly measures enacted by the EPA in 2015 are rules which will regulate power plants and air quality, give new definition to “waters of the United States” under the Clean Water Act, and hand the EPA dramatically more control over streams, waters found on private property, and even standing water in ditches. And this avalanche of regulations will increasingly transfer private property rights from property owners to the massive and overreaching federal agency.

The colossal number of rules and regulations passed this year will impact every area of American life. Even Internet usage will be affected, as sweeping new FCC regulations regarding net neutrality will open the door for federal control over Internet service and possible federal fees on internet usage.

According to the CEI report, the new rules and regulations are not the only area of concern. There are also many thousands of official “notices” which contain a plethora of information, not much of which is known:

There are several hundred guidances in effect acknowledged to be “significant.” And the *Federal Register* this year contains 23,901 “notices.” Most are insignificant, but lots of stuff gets buried there, and still more doesn't even appear in the *Federal Register* at all. No one even knows where to find all the agency “guidance” that's out there.

Indeed, with 23,901 “notices,” it would appear nearly impossible for the American people to keep track of the incredible number of new directives. The fact that “lots of stuff gets buried there” does not make that material less important. Indeed, it is imperative for the public to know what material lies hidden in



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what has been called “Regulatory Dark Matter” in a December report by Crews at CEI.

The problem with the rules, regulations (enacted and proposed), and notices which fill the *Federal Register* is that they amount to laws handed down to the public outside the democratic lawmaking process spelled out in the U.S. Constitution, whereby only Congress (the legislative branch) is to make laws — not the executive branch. For decades presidents and other elected officials have allowed unelected bureaucrats in federal agencies to take control over an increasing number of aspects of American life and industry.

While Congress passes and the president signs on average only a few dozen laws each year, the Administrative Procedure Act of 1946 established a process whereby federal agencies may issue new rules and regulations. In the decades following enactment of that law, the regulatory monstrosity we have now has grown to be gargantuan.

In 1996 Congress passed the Congressional Review Act, which has the ability to consider new rules and regulations (which might have a \$100-million or more annual economic impact), and if necessary issue a “resolution of disapproval.” However, Congress rarely wields this authority, and the “regulatory dark matter” continues to snowball.

One way in which massive over-regulation can be curtailed is by increasing government oversight of new rules and regulations issued by federal agencies, and dispensing “resolutions of disapproval” on a dramatically more frequent basis.

Another avenue to curtail the monstrosity which is threatening both American liberty and the U.S. economy is the Regulations From the Executive in Need of Scrutiny Act (REINS Act). This measure is in essence a version of the Congressional Review Act which would apply directly to rules or regulations handed down from the president which would have an annual economic impact of \$100 million or more.

Earlier this year the House of Representatives passed the measure with bipartisan support. However, the Senate version (S. 226) introduced by Senator Rand Paul nearly a year ago has been pointedly ignored. Furthermore, President Obama has threatened to veto the bill were it to come to his desk.

Obama’s promise to veto the bill should come as no surprise, as it would threaten the power he wields with his executive orders. He has claimed that congressional review of “major executive branch decrees” would create “uncertainty,” stating,

By replacing this well-established framework with a blanket requirement of Congressional approval, [the bill] would throw all major regulations into a months-long limbo, fostering uncertainty and impeding business investment that is vital to economic growth.

According to *The New American’s* Alex Newman, there is a simple solution to the massive federal regulatory beast. He has stated:

Of course, a better solution than the REINS Act to the regulatory tsunami sweeping over America and threatening its future would be for members of Congress to simply obey their oath of office to the U.S. Constitution. That means, for example, that all funding for unconstitutional bureaucracies would be cut, eliminating the need for Congress to vote on individual regulations. And there is nothing Obama could do about it. Obama’s “pen and phone” could be de-funded, too. Then, state and local governments can take over any useful functions those federal agencies or programs may have performed — assuming there are any — and the American people can once again enjoy the freedom bequeathed to them by the Founders.



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Clyde Crews illustrated both the problem and the solution in this simple statement: “People who make laws should be the people [whom] we elect; not unelected, untouchable bureaucrats.”

As the *Federal Register* grows ever more mountainous as the years pass, American industry continues to stagger under the load of regulations, and citizens’ rights are eroding at a breakneck pace. The electorate — those who wield the true power in the form of a vote — must pressure their elected officials to abide by their oath of office and uphold the U.S. Constitution. And if those officials do not comply, then it is the duty of the citizens to put people in office who will. The answer to the mushrooming regulatory state lies in upholding the Constitution.



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