



ADVANCING **AMERICAN** FREEDOM

RISE OF THE REGULATORY STATE

THE GROWING MAZE OF RED TAPE
STRAINING OUR ECONOMY

Rise Of The Regulatory State: The Growing Maze of Red Tape Straining Our Economy

For decades, bureaucrats in Washington D.C. have grown the regulatory state at the expense of American families and businesses.

INTRODUCTION

Under President Biden there has been a costly surge of federal regulations imposed on nearly every aspect of our everyday lives. Every day, bureaucrats in Washington D.C. are piling on new mandates and red tape to tell Americans what kind of car to drive, which household appliance to use, what food to grow and eat, what form of energy to use, and more.

Unfortunately, while Biden has ushered in a renewed wave of overregulation, he is continuing a trend that goes back decades. The regulatory state has long worked to expand its reach and seize more power.

PILING ON THOUSANDS OF PAGES OF RED TAPE

One indicative measure of the growth in red tape is the [size of the Federal Register](#), a daily publication where rules and regulations and other administrative actions are announced. The publication includes both proposed rules and final rules, as well as other notifications about the activities of the executive branch. The total size of the Federal Register has grown from 57,072 pages in 1976 to 90,402 pages in 2023 – an increase of more than 58%. While the size of the publication has fluctuated over time, the growth of the regulatory state picked up under the Obama Administration. Since 2009, the number of pages in the Federal Register has jumped by nearly 30% from 69,643 to 90,402.

Similarly, the size of the Code of Federal Regulations also demonstrates the ever-growing reach of the regulatory state. The Code of Federal Regulations, which contains all finalized rules and regulations, [surpassed](#) 188,000 pages in 2021, up from around 163,000 in 2009.

INFLUX OF MAJOR REGULATIONS

The overall rise in regulations has coincided with a significant increase in the size and scope of regulations. For example, the number of regulations issued each year that have a sizable impact on our economy has grown dramatically. [Economically Significant Rules](#) (ESR), rules that impact the economy in a substantial way, have become more commonplace as the regulatory state has expanded its reach.

While President Reagan's Administration [released](#) an average of around 20 ESRs each year during his time in office, President Obama's administration imposed around 62 such rules annually. In total, the Reagan Administration published 159 ESRs, while the Obama Administration published 497 ESRs.

The Trump-Pence Administration published just 118 ESRs from 2017-2019 before the COVID-19 pandemic. In contrast, the Biden-Harris Administration published 196 ESRs from 2021-2023, [more than](#) any other administration in the past four decades has published during its first three years.

When President Biden released his first fall unified regulatory agenda in December 2021, he [included](#) at least 200 ESRs – compared to the 118 ESRs in President Obama's first fall unified agenda.

As he approaches the end of his term, President Biden has stepped up the release of major regulations. In April 2024, Biden released 34 Economically Significant Rules, the [most for any one month](#) dating back to at least the Reagan Administration. This increase is likely due, in part, to the fact that rules finalized later in the year may be at risk of being overturned through the Congressional Review Act.

THE EXPANDING FEDERAL BUREAUCRACY

As more and more costly regulations have been added, the size of the federal bureaucracy has steadily grown to help implement those regulations. These unelected bureaucrats exert an outsized influence on the lives of all Americans.

According to an [analysis](#) of Census Bureau data, the number of executive branch civilian employees has jumped from just over 1 million in 2000 to around 2.2 million in 2021, excluding Department of Defense, Homeland Security, and Postal Service employees. Just as the number of employees has risen exponentially so has the number of federal agencies. There are now well [over 400](#) Federal departments and agencies.

As D.C.'s army of regulators has grown, Americans have been forced to foot the bill for the costs. In 2024, the federal government is [expected](#) to pay around \$390 billion on pay and benefits for civilian executive branch employees. As the bureaucratic workforce has grown so has spending. Budgetary outlays by regulatory agencies have [grown](#) by around 200% since 1980.

BIDEN'S WAVE OF COSTLY REGULATIONS

President Biden has jumpstarted a rapid expansion of new rules and mandates to support his left-wing agenda. From the start of his administration to early May 2024, the Biden Administration has released nearly 900 final rules which are [expected](#) to cost an astounding \$1.47 trillion. This wave of regulatory activity has picked up heading into 2024. A swath of final rules released during first four months of 2024 are [projected](#) to cost some \$1 trillion.

In particular, Biden has used regulation as a method to unilaterally impose his extreme climate agenda on the American people. Since 2021, an [estimated](#) 130 rules regarding energy & the environment have been finalized, with a projected cost of \$1.3 trillion. The vast majority of these projected costs come from rules finalized so far in [2024](#). For example, Biden finalized drastic new fuel efficiency standards for light-duty and medium-duty vehicles in April 2024 that are expected to [cost](#) some \$870 billion.

As part of his climate agenda, Biden has put forth dozens of regulations to impose new environmental mandates on everyday appliances. For example, in Biden's regulatory agenda for 2022 he [included](#) more than 100 regulations regarding appliances such as refrigerators, clothes washers and dryers, dish washers, heating and cooling systems, light bulbs, and more.

Beyond rules which have been finalized, Biden has instituted Executive Orders on climate change, imposed new climate plans for agencies, and proposed numerous rules that are working their way through the regulatory process. Estimates show that the Biden administration has taken more than 200 [actions](#) so far to implement new climate policies, reimpose previously cut regulations, and expand existing rules.

RISE OF BUREAUCRATIC OVERREACH

This power grab by the regulatory state has been, in part, a result of the disastrous *Chevron* decision made by the Supreme Court in 1984. The *Chevron* [decision](#) effectively left it up to federal agencies to interpret vague statutory language, leading the bureaucracy to overreach well beyond its Constitutional authority.

Emboldened by the *Chevron* decision, the regulatory state has repeatedly relied on the deference to expand its scope and impose new red tape on the American people. A study [published](#) in 2015 surveyed regulators from seven executive departments on the rule making and interpretation process. In the survey, regulators were asked about a series "tools" or precedents and their influence on the drafting of federal rules. The survey found that 90% of the agency employees relied on the *Chevron* deference during the rule drafting process.

A 2017 [study](#) published in the Michigan Law Review examining a dataset of regulatory court cases argued before Circuit Courts found that the *Chevron* deference has been repeatedly relied on in such litigation. For

example, the D.C. Circuit relied on *Chevron* in over 88% of the cases examined. The authors further broke down the reliance on *Chevron* by the issue area involved in each case. The study found that *Chevron* was relied on in 70% of the environmental cases examined, 79% of the business regulation cases examined, and 82% of the telecommunications related cases examined.

AMERICANS WANT TO REIN IN THE REGULATORY STATE

As Americans feel the burden of overregulation, polling has consistently shown that the public wants to rein in government overreach.

For the last 30 years, Gallup has surveyed Americans on whether they believe that the “government is doing too much” or that the “government should do more.” In 2023, 54% of Americans [said](#) the government was doing too much while 43% said it should be doing more. Since Gallup began asking the question in 1993, more Americans have stated that the government is doing too much rather than too little every single year [aside](#) from 2020.

Gallup’s polling further shows that Americans consistently view the federal government as having too much power rather than too little. [57%](#) of respondents in 2023 said the federal government has too much power, while just 7% said it has too little power.

Americans have similarly expressed concerns about the impact of regulations on business and industry. Gallup’s polling shows that the share of Americans who say there is too much regulation on business has exceeded those who say there is too little regulation on business every single year since 2001. Last year, [44%](#) said there was too much regulation on business, while just 25% said there was too little.