COSTS OF REGULATION: FILLING THE GAPS

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This assessment of regulatory cost information extends the findings of my 1991 paper on the costs that the private sector and state-local governments bear in complying with federal regulation.[1] While the evidence remains spotty and riddled with definitional and accounting inconsistencies, it does permit some updating and buttressing of earlier estimates. Part I of the report summarizes the revised estimates and reviews their general plausibility. Part II then discusses regulatory cost developments organized along lines of the regulatory classification scheme developed for the 1991 paper. A concluding section briefly characterizes emerging patterns and opportunities for regulatory cost control.

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1 The August 1991 "Cost of Regulation" report to the Regulatory Information Service Center was revised slightly for broader distribution in December 1991 as an RIT Public Policy Working Paper. An abridged version with some new material was published in the March 1992 Journal of Regulation and Social Costs. Further modified with the collaboration and co-authorship of Robert W. Hahn, it appears as "Regulation/Deregulation: Looking Backward, Looking Forward" in the July/August 1992 American Enterprise. A Regulatory Policy Conference was held May 5, 1992 at RIT to discuss this research and related issues; the conference proceedings report is forthcoming.

I. Overall pattern and size of regulatory costs

The costs of complying with federal regulations appear to have hit a record high $542 billion in 1991. Virtually none of these costs are borne by the federal government itself; instead these unbudgeted costs are paid by businesses, state-local governments, and consumers. This is a larger estimate than that contained in my 1991 report, because it incorporates newer information pointing to higher costs. (All data in this paper are stated in 1991 dollars, while the previous estimates were in 1988 dollars.)

The overall pattern of regulatory costs, however, is little changed. When transfer costs are included, total regulatory costs show a steady decline for a decade until a reversal occurred about 1988. Excluding transfers, total regulatory costs were roughly stable 1977-88, as declining deadweight costs of economic regulation just offset rising costs of environmental regulation; thereafter total costs exhibit a rising pattern. The appendix details these further, and the highlights appear below.

Revised annual cost of federal regulation (billions of 1991 dollars)

	1977	1988	1991	2000
Environmental regulation	42	87	115	178
Other social regulation	29	30	36	61
Economic regs--efficiency	120	73	73	73
Process regulation	122	153	189	221
Subtotal of costs	313	343	413	533
Economic regs--transfers	228	130	130	130
Total costs	540	473	542	662

A. Plausibility of magnitudes

These are of course large cost estimates whether expressed in absolute terms, as above, or relative to Gross Domestic Product (in the 10% range) or households (over $5,000 per household). Indeed the sheer size invites skepticism about their plausibility. For example, Paul MacAvoy has derived a substantially lower regulatory cost estimate, using a general equilibrium approach. MacAvoy finds that all regulation reduced GDP by 1.5% to 2.0% annually during the period 1973-1987.[2] On the other hand, Jorgenson and Wilcoxen, also employing a general equilibrium framework, conclude that environmental regulation alone reduced GDP by 2.6% annually 1973-85.[3] The Hazilla and Kopp general equilibrium estimates are even larger, showing "that real GNP was 5.8% lower in 1990 than it would have been without clean air and clean water regulations."[4] Note that my table puts environmental costs at 20-25% of the total, so an overall cost at 10% of GDP is not implausibly large in light of the J-W and H-K estimates.[5]

More to the point, however, is that the regulatory compliance cost estimates of this report (1) do not factor in regulatory benefits, and (2) do encompass some costs that GDP estimates miss or exclude. For the same reason that the fiscal budget accounts only for the costs (both resource and transfers) of government spending programs, the present regulatory cost undertaking focuses exclusively on the cost side of regulatory effects. By

2 Paul W. MacAvoy, Industry Regulation and the Performance of the American Economy (New York: W. W. Norton & Co., 1992), p. 108.

3 Dale W. Jorgenson and Peter J. Wilcoxen, "Environmental Regulation and U.S. Economic Growth," Rand Journal of Economics (Vol. 21, No. 2, Summer 1990), p. 315.

4 Robert Crandall, "Why is the Cost of Environmental Regulation so High?" Center for the Study of American Business, February 1992, p. 3.

5 For further comment on the challenge of regulatory cost calculations, see William A. Niskanen, "The Total Cost of Regulation?" Regulation, Summer 1991, Vol. 14, No. 3, pp. 23-25, and "The Costs of Regulation (Continued)," Regulation, Spring 1992, Vol. 15, No. 2, pp. 25-26

contrast, general equilibrium estimates reflect net effects. Indeed MacAvoy offers this challenge to the compliance cost approach that underlies the report:

> "My basic question...is why doesn't the GNP growth rate provide the single useful measure of societal impact of regulation? Almost all derivative benefits in other than the regulated industry from controls are manifest in GNP (that should be the case even with environmental effects)....[This would] subsume compliance costs and other paper work burdens in transactions costs. It does away with the opportunity to incorrectly measure effects through counting transfer payments from one interest group to the other as cost of regulation."[6]

The purpose of the federal budget is not to gauge net societal impacts, and neither is that the intent of this report. There is merit in separately addressing costs and benefits, even though net effects ultimately are the most important policy consideration (some indications of those net effects are presented below for illustrative purposes). A compliance cost focus does not purport to represent a balanced and complete assessment of regulatory effect.

Secondly, while regulatory burdens can and do retard GDP growth in a variety of ways, as documented by general equilibrium studies, some regulatory costs can rise or fall without commensurate effects on GDP and income. When a regulatory constraint limits product variety (as with product bans or energy efficiency standards), the regulatory cost estimate of the loss in societal welfare likely will exceed the GDP consequences. This does not mean that regulatory costs are being overstated, since neither GDP nor family income measures are wholly adequate indicators of societal welfare. Some regulatory costs reflect a reduction in societal welfare (consumer and producer surplus) that may not show up as changes in GDP or measured income.

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6 Paul W. MacAvoy, April 10, 1992 letter to the author.

B. Plausibility of projections

The data presented in the report's tables beyond 1991 are projections. They reflect a judgment that the effect of existing legislative guidance to federal agencies very likely will be a continuing increase in regulatory costs over the next decade, indeed one that my estimates almost surely understate. This is supported by a variety of indicators:

Regulations scheduled for adoption this year. The federal government's July 1992 Mid-Session Review of the 1993 Fiscal Year Budget lists 57 new regulations each of which "will require major increases in private sector compliance costs"--all expected to be issued in final form during 1992. As a group, these new regulations will increase total compliance costs by at least $15 billion annually.[7] Nearly $14 billion of this total is attributable to just 25 regulations from the Environmental Protection Agency (15 new rules costing $9.5 billion), Occupational Safety and Health Administration (6 rules costing $1.9 billion), Food and Drug Administration (2 rules costing $1.8 billion), and the Departments of Transportation and Housing and Urban Development (2 rules costing $0.5 billion), as detailed below:

Costliest 25 New Regulations for 1992

Federal Register cite		*Annual costs in $ millions*
	Environmental Protection Agency	(69% of the top 25's costs)
56FR63002	Acid rain emissions/electric utilities	3,000
56FR48272	On-board diagnostics/motor vehicles	1,600

[7] Office of Management and Budget, Mid-Session Review: The President's Budget and Economic Growth Agenda, July 24, 1992, Table 17-3, pp. 401-405

Costliest 25 New Regulations for 1992 (continued)

Annual costs in $ millions

	Environmental Protection Agency (continued)	
56FR31176	Reformulated gasoline/motor vehicles	1,000
56FR21712	Clean Air Act Title V permits	650
56FR48000	Used oil management/motor vehicles	610
56FR31148	Oxygenated fuels/motor vehicles	430
n.a.	Municipal waste combustors emissions standards	390
56FR33490	Air emissions from hazardous waste tanks	360
56FR24468	Air emissions from municipal solid waste landfills	320
n.a.	Nitrogen oxide limits/electric utilities	200-400
55FR38250	Carbon monoxide winter warmup auto emissions	280
n.a.	Hazardous air emissions/synthetic organic chemicals	210
56FR40948	Stormwater discharge permits (NPDES)	160
54FR5746	Sewage sludge use and disposal	140
53FR25970	Protecting farm pesticide workers	140
	Occupational Safety and Health Administration (14%)	
55FR29150	Hazardous materials handling standards	711
55FR13360	Scaffolding and stairway standards	462
55FR3724	Asbestos standards	246
55FR28728	Employee usage of seatbelts in vehicles	221
55FR4052	Worker exposure to cadmium in the air	182
54FR24080	Regulation of entry to tanks and other confined spaces	105
	Food and Drug Administration (13%)	
55FR20896	Clinical laboratory practices	1,600
56FR60556	Nutrition labeling	197
	Department of Transportation (3%)	
55FR50192	Double-hull standards for ocean oil tankers	349
	Department of Housing and Urban Development (1%)	
n.a.	Manufactured housing energy conservation	200
Total cost (in millions) of the 25 largest new 1992 regulations:		$13,863

In addition, the April 1992 Unified Agenda of Federal Regulations identifies nine other significant (although less costly) pending regulations whose annual costs are expected to total $131 million.[8]

All of these cost estimates are generated by the regulatory agencies themselves. While an agency has little incentive to overstate regulatory costs, the scrutiny these estimates receive during the Executive Order review process and public comment period probably ensures that most are defensible. Nonetheless, they are more likely to understate than to overstate compliance costs. For example, the National Research Council estimates that the Transportation Department's double hull regulation likely will entail annual costs of $712 million, more than twice the amount shown in the table above.[9]

Regulators' activity levels. While recent editions of the Unified Agenda have documented rising numbers of pending regulations, the April 1992 issue showed a decline, reporting that 59 regulatory agencies then were at work on 4,186 regulations, down from the 4,863 pending in October 1991. However, this cannot be taken as evidence of a diminution in regulatory activity, for two reasons. First, no entries appear in the April Agenda from one important regulatory agency, the Securities and Exchange Commission, although SEC rulemakings had been included in earlier Agendas; SEC entries apparently only became available after press time and were separately printed. Secondly,

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[8] The nine are:

DOT	Unescorted Access Privilege	57FR5352	2/13/92	$4.1-6.6 million
DOT	FMVSS Lamps		12/4/91	24.6 million
DOT	Airspace Reclassification	54FR42916	10/18/89	1.9 million
DOT	Min.Unif.Stand.Biometric ID		5/15/89	5.1-16.9 million
EPA	Dioxin/Pulp & Paper		5/10/91	5.5 million
EPA	Multisubstance...Toxicity		3/4/91	2-2.9 million
EPA	Use of Acrylamide Grouting	56FR49863	10/2/91	4.4-7.4 million
EPA	Effluent guidelines...organics	56FR63897	12/6/91	61 million
HHS	NIOSH Respir. Device Test	52FR32402	8/27/87	14 mil. for 6 yrs

[9] National Research Council, Tanker Spills: Prevention by Design (Washington: National Academy Press, 1991), p. 171

only became available after press time and were separately printed. Secondly, the January 28, 1992 Presidential moratorium (initially for 90 days, subsequently extended for another four months) on new regulations led agencies to defer submitting entries while they focused on moratorium-driven reviews. This meant that at publication time, "Agency plans for new regulations, in particular, and those already under development have not been made firm."[10] While many agencies cut back substantially on Unified Agenda entries pending completion of the moratorium, its end could bring a profusion of pent-up initiatives. On the other hand, the moratorium review activity itself has spawned some significant regulatory cost reductions, as shown below, totaling perhaps $10-20 billion annually, and more may lie ahead:[11]

Future regulatory cost reduction from moratorium initiatives, in millions

Environmental		
EPA	900-3,300	
Interior	100	
subtotal		$1,000-3,400
Other social		
Labor	1,900-3,100	
HHS	1,600-2,700	
HUD	100-200	
subtotal		$3,600-6,000
Economic		
FERC	2,600-5,900	
ICC	900-3,300	
DOT	100-1,200	
FCC	300	
USDA	100	

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[10] Regulatory Information Service Center, Unified Agenda of Federal Regulations, April 1992, p. 16748

[11] Office of Management and Budget, Mid-Session Review: The President's Budget and Economic Growth Agenda, July 24, 1992, p. 396

FMC	100	
subtotal		$4,100-10,900
Process and mscl.		
Treasury	1,600	
other agencies	less than 100	
subtotal		$1,600
Total eventual annual savings		$10,300-21,900

Agency staffing and budgets provide another indication of the flow of regulatory initiatives. The 1993 budget calls for basically no change in regulatory agency spending, the first year since 1986 to have no real increases in spending. However, agency staffing continues to mount to a record high of 126,500 people administering federal regulatory programs.[12] Agency staffing probably is a better indicator of regulatory activity than agency budgets. Regulatory agency staffing had grown steadily to a peak of 122,000 people in 1980, and then declined for several years, falling to a low of 102,000 in 1985 before resuming its climb. The staffing pattern by type of regulation:[13]

	1985	1990	1993
Environmental	16,054	20,057	22,789
Other social	63,197	67,246	73,166
Economic	22,899	27,289	30,546
Total	102,140	114,592	126,501

12 Melinda Warren and James Lis, "Regulatory Standstill: Analysis of the 1993 Federal Budget," Center for the Study of American Business, June 1992, pp. 1-2.
13 Op.cit., Table 2, page 4

Regulatory statutes. One recent survey of statutory changes that have received the Administration's support suggests a wave of major new regulatory costs:[14]

-Americans with Disabilities Act
-Clean Air Act amendments of 1990
-Oil Pollution Act of 1990
-Civil Rights Act of 1991
-higher minimum wage
-complex new physician's compensation schedule for Medicare

Other recent statutes that also have substantial future regulatory cost implications include:

-Clinical Laboratory Improvement Amendment of 1988
-Airport Noise and Capacity Act of 1990
-National Appliance Energy Conservation Act of 1987
-Energy Policy and Conservation Act Amendments of 1989
-FDIC Improvement Act of 1991
-Community Reinvestment Act of 1977
-additional entries appear in the paper's discussion of mandates

Pending legislation that may contribute significantly to regulatory costs include:

-Trade Expansion Act of 1992, which while lessening some trade impediments (U.S. Customs redtape, e.g.), would create others (such as more protectionist auto policies)[15]

-National Energy Security Act of 1992, which while easing licensing procedures for nuclear energy plants and bringing greater competition to the wholesale electric power market, yet also call for more stringent appliance efficiency regulation[16]

-Cable TV amendments to re-regulate cable

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14 "Small Change: the Regulatory Record of the Bush Administration," Regulation, Winter 1992, Vol. 15, No. 1, p. 10

15 Business Week, May 25, 1992, p. 142, and James [illegible]ward, "Summer Trade Follies," The Wall Street Journal, July 1992

16 Clifford Krauss, "Watered Down, Energy Bill Slogs On," The New York Times, August 10, 1992, p. D2

II. Regulatory Cost Developments

A. Environmental regulation

The Environmental Protection Agency data that the report mainly relies upon indicate that:

> "Water pollution control spending accounted for half of all federally-mandated environmental compliance costs in 1990. Air pollution control (auto emissions, smokestack controls, etc.) is the second largest spending area, representing just over a third of all federally-mandated environmental costs. A variety of land pollution control mandates account for the rest of environmental costs, including mainly solid waste, hazardous waste, RCRA and Superfund. This mix will be changing in the 90's, since recent land pollution regulation calls for substantially more extensive control measures, while the relative size of water pollution spending will decline. Quite apart from the environmental costs that are included in this paper's estimates, which only cover spending due to federal regulation, substantial additional spending occurs to control pollution. If all such voluntary spending by local governments and by businesses (on solid waste collection, e.g.) were added, the total reported cost for environmental protection would jump by nearly 25%, according to EPA data."[17]

In discussions of aggregate compliance costs, cost increases occasionally are taken as indicative of greater benefits (generally in terms of a cleaner environment). Certainly environmental costs continue to rise, but due to poorly designed regulations much of this cost serves no useful purpose.[18] Cropper and Oates point out that "...control costs under existing programs have often been several times the least-cost levels."[19] Thus cost reductions,

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[17] Thomas D. Hopkins, "The Costs of Federal Regulation," Journal of Regulation and Social Costs, Vol 2, No. 1, March 1992, p. 16. The EPA data come from U.S. Environmental Protection Agency, "Environmental Investments: The Cost of a Clean Environment," EPA-230-12-90-084, December 1990, Table 8-9E and pp. vi, 1-7, 8-3, 8-4.

[18] See Robert Crandall, "Why is the Cost of Environmental Regulation So High," Center for the Study of American Business Policy Study No. 110, February 1992

[19] Maureen L. Cropper and Wallace E. Oates, "Environmental Economics: A Survey," Journal of Economic Literature, Vol. XXX, No. 2, June 1992, p. 686

were they to be achieved, need not entail less environmental protection. Indeed, a 1990 study by David Harrison and Albert Nichols concludes "... that smog-control costs could be cut by a quarter or more by creating a free market in pollution rights."[20] On another front, experience to date with cleanup of hazardous waste sites has been less than encouraging. "The federal government and companies together have spent $11 billion, but only 84 of the 1,245 worst sites have been cleaned up;" meanwhile, some now contend that leaving some sites undisturbed may be less environmentally threatening than the clean-up effort itself.[21]

A related misunderstanding is to find reassuring any evidence that total benefits of environmental regulation exceed total costs. Inevitably a presentation of cost totals elicits requests for corresponding benefit information, and some such is available:

> "By 1990, the benefits of air pollution regulations probably were exceeding compliance costs by some $13 billion annually; for water pollution regulations, the results were just the opposite, with costs exceeding benefits by about $21 billion annually. The 1990 Clean Air Act amendments will likely impose additional compliance costs of $30 billion annually while generating much smaller benefits of about $14 billion."[22]

Yet this hides as much information as it yields, since it neglects the important distinction between total and incremental effects. Within any one of these regulatory categories there very likely are some individual regulations whose costs far exceed their benefits, and some with the opposite relationship.

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[20] As reported in Peter Passell, "Breathable Air for Swap or Sale," The New York Times, January 29, 1992, p. D2

[21] Business Week, May 25, 1992, p. 142

[22] Robert W. Hahn and Thomas D. Hopkins, "Regulation/Deregulation: Looking Backward, Looking Forward," The American Enterprise, July/August 1992. Also see Cropper and Oates, op.cit., pp. 700-722. Hahn elsewhere surmises that the $30 billion cost of complying with the 1990 Clean Air Act amendments will entail $5 billion for acid rain emission controls, $20 billion for ozone-related reductions and $10 billion for air toxics reductions.

Aggregate analysis is instructive for tracing overall burdens, developing regulatory budgets, and ranking cost areas, but incremental analysis is essential for judging the merit of any particular regulatory decision.

The environmental compliance costs shown in my 1991 report's tables can be criticized in at least three respects. First, the data were taken directly from the Environmental Protection Agency, and as already noted any regulator has a natural incentive to estimate conservatively the costs it is imposing on others. Those who must comply with the regulations tend not surprisingly to believe their actual costs exceed these estimates, quite apart from costs associated with statutory changes adopted after EPA completed its 1990 study--mainly the 1990 Clean Air Act Amendments. In particular, litigation and other non-cleanup related expenses related to Superfund and remediation under RCRA have ballooned, and EPA data probably do not include all such costs. Portney offers a "ballpark" estimate of $15-20 billion annually over the next 20-30 years, about half of which is for facilities owned by the federal government.[23] It is not entirely clear just how much of this cost is additive to EPA's data on pollution control costs, although it could reasonably be as much as $8 billion.

Secondly, not all environmental regulatory programs are represented in EPA's cost data. In particular, the data do not take account of important regulations from the Department of Transportation aimed at two quite different pollution problems--aviation noise and ocean oil spills. Regulations DOT promulgated in 1991 require substantially quieter jet aircraft by 2000, and the cost implications are sizable although in dispute. The agency contends that the added cost, spread over the period 1992-1999, amounts to at most

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[23] Paul R. Portney, "The Economics of Hazardous Waste Regulation," paper for American Council on Capital Formation, Washington, 1992, p. 15

$4.2 billion (and probably not more than $800 million), while the industry claims the actual cost will be at least 15 times even the larger level.[24] As previously noted, the DOT oil pollution regulation mandating double hulls for oil tankers will impose higher annual oil transportation costs of at least $349 million (Transportation Department's estimate), and probably nearer $700 million (National Research Council estimate). Moreover, the oil tanker rule is only one piece of the regulatory requirements produced by the Oil Pollution Act of 1990--liability and financial responsibility features also will be costly. Quite apart from assessing existing regulatory programs that have been overlooked, there also is the ever-present possibility of surprise new burdens, such as that stemming from a July 1992 court decision requiring EPA to ban additional pesticides that the agency believes are now used safely and prudently.[25]

Thirdly, a more fundamental objection comes from advocates of general equilibrium analysis. What a firm spends to comply with a regulation may be quite different from its ultimate effect on that firm's and other firms' profitability and on consumers, after all marketplace interactions are traced through. This report's compliance cost approach, by ignoring such interactions, overstates the costs that any set of regulations imposes in the short-run but understates regulatory costs in the long run.[26] Moreover, until such time as timely and comprehensive general equilibrium studies are available, there seems no acceptable alternative to relying on this report's type of compliance costs.

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[24] Federal Register, September 25, 1991, p. 48650; The Wall Street Journal, September 25, 1991; and conversation with Air Transport Association staff.

[25] Keith Schneider, "Court Expands Pesticide Ban to Cover Many Used in Food," The New York Times, July 9, 1992, p. 1

[26] For a fuller discussion of this point, see Cropper and Oates, op.cit., pp. 721-722

Revisions to environmental cost estimates: The adjustment to my 1991 estimates for the unanticipated costs from the 1990 Clean Air Act Amendments is to increase annual costs by $10 billion starting in 1995 (there will be a further upward ratchet of about $25 billion annually starting about 2001). My adjustment for unanticipated higher expenses associated with Superfund/RCRA is to increase annual costs by $8 billion in 1991 and each subsequent year. Because the report's focus is on those compliance costs not paid for by the federal government, one further adjustment is needed. The accompanying table shows the percentage of total compliance costs funded by EPA and by other federal agencies (mainly the Departments of Energy and Defense). I have reduced my total regulatory compliance costs by these percentages. Hence the report now understates the total societal cost of compliance with environmental regulation, since I exclude those outlays that are financed through the federal budget (either directly or through federal grants to state-local governments). Finally, I add in the combined costs of compliance with the 1990 Oil Pollution Act (double hulled oil tankers) and aircraft noise standards, not previously included, which I put at $1 billion annually starting in 1993. Note that my estimates in both the 1991 report and the present one exclude environmental expenditures not mandated by the federal government (such as for local trash collection), spending that EPA included.

B. Other social regulation

A clearer sense of the burgeoning regulatory cost situation in the consumer and worker protection area can be gained by briefly reviewing a few major current initiatives.

Accessibility. The annual costs of complying with the Americans with Disabilities Act have not been fully estimated, but the transportation portion of

the requirements alone have been put in the $676-938 billion range (1990 dollars) by the Department of Transportation.[27] The American Public Transit Association not surprisingly believes this is an underestimate and that $1.4 billion is more likely. Other aspects of ADA (along with related statutes such as the Fair Housing Amendments Act of 1988) may prove considerably more costly, particularly those of bringing hospitals, office buildings and other structures into compliance. Agency efforts to estimate compliance costs are always subject to criticism from those regulated, of course, but a remarkably broad-based coalition of interest groups in 1990 contended that the Department of Housing and Urban Development was seriously underestimating accessibility costs.[28] Genetski concludes, based on information from the American Hospital Association, among others, that the price tag of ADA as a whole "could easily amount to at least $20 billion a year for the next five years."[29] Genetski estimates that making commercial office space accessible will cost $45 billion ($5 per square foot x 9 billion square feet nationwide of office space), and that $20 billion will be needed to make hospitals accessible. There also will be inevitable litigation expenses as well as unexpected cost implications for other programs. In August 1992 the federal government rejected Oregon's innovative health care rationing proposal on the grounds that it violates the ADA, a position strongly disputed by the State of Oregon and one that derails an effort to control health care costs.[30]

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[27] U.S. Department of Transportation, "Final Regulatory Impact Analysis," November 1991, p. VII-1.

[28] A joint submission to HUD from the American Institute of Architects, American Paralysis Association, National Association of Home Builders, Paralyzed Veterans of America, and 16 other organizations, October 10, 1990

[29] Robert Genetski, "The True Cost of Government," Wall Street Journal, February 19, 1992.

[30] Oregon Governor Barbara Roberts, "Bush Blows It on Health Care," The New York Times, August 11, 1992, and Timothy Egan, "Oregon Seeks to Revive Health Care 'Rationing' Plan," The New York Times, August 14, 1992, p. A17

Food labeling. Both the Food and Drug Administration and the Department of Agriculture have proposed sweeping changes in how food products must be labeled, with the intention of issuing final regulations in November 1992 that would take effect in May 1993. Cost estimates have ranged broadly. Initially FDA put the costs of its own rule changes at $1.7 billion over twenty years.[31] The USDA then followed FDA's lead in proposing analogous changes for meat products that fall within its jurisdiction. The regulated industry contends that the combined labeling costs would reach at least $6 billion in the first year alone, far more than the agencies believe to be the case.[32] At present these proposals are caught up in the moratorium, creating considerable uncertainty about both the timing and stringency of the final action.[33]

Medical lab practices. The single most costly new regulation included in the 1992 listing shown earlier is one from the Department of Health and Human Services that takes effect in September. The Clinical Laboratory Improvement regulations will impose annual costs of $1.6 billion stemming from tighter controls over lab tests formerly often conducted in doctors' offices. The medical profession contends that the regulation constitutes an excessively costly way to police lab testing.

Auto safety. My 1991 estimates were based on work by Robert W. Crandall and are retained in the current report, although I understand that

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31 Philip J. Hilts, "U.S. Will Propose New Restrictions on Food Labeling," The New York Times, November 6, 1991, p. 1.

32 Submission of the Chocolate Manufacturers Association of the U.S. and the National Confectioners Association of the U.S. to the Food and Drug Administration, February 25, 1992, p. 10

33 "FDA Seeks Public Input on its New Food Labels," The Wall Street Journal, July 17, 1992, and Bruce Ingersoll, "U.S. to Delay Enforcing Plan to Relabel Meat," The Wall Street Journal, March 20, 1992.

internal estimates at the Department of Transportation are lower (by roughly $2 billion annually).

Energy conservation. Efforts to lessen our dependence on imported oil and to economize on energy consumption for environmental reasons continue both in the Congress and at the agencies. The National Appliance Energy Conservation Act of 1987, adopted in part to preempt states from proceeding with diverse energy efficiency standards that would complicate interstate commerce, has yielded an array of costly federal standards forcing manufacturers to improve the energy efficiency of their products by 1993. Mandated changes in washing machines, refrigerators and related appliances appear likely to cost roughly $1 billion by 1995, according to industry sources. This amount could rise further if the use of CFC's must be discontinued for environmental reasons.[34] Moreover, as the latest energy bill, the National Energy Security Act, nears passage, it offers prospects of yet tighter standards for electric motors and appliances.[35]

Auto fuel economy also continues to attract regulatory attention, although the pending energy bill has deleted the gradual tightening from 27.5 mpg to 40 mpg by 2001 that some had advocated. Moreover, in February 1992 the D.C. Court of Appeals overturned the 1990 Corporate Average Fuel Economy Standard (CAFE). The court found that the Department of Transportation had not taken adequate account of CAFE's adverse effects on safety. A primary means of achieving improved fuel economy has been downsizing and lightening, which results in less crashworthy vehicles, a cost

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34 John Holusha, "Ozone Laws Worry Appliance Trade," The New York Times, February 10, 1992

35 Clifford Krauss, "Watered Down, Energy Bill Slogs On," The New York Times, August 10, 1992, p. D2

that had not generally entered into decisions about fuel economy standards. Where this now will lead is unclear.

Labor protection. As shown in the list of forthcoming regulations, at least six substantial new regulations are expected from the Occupational Safety and Health Administration in 1992, imposing a combined annual cost increase of $1,900 billion. In addition, one quite costly December 1991 final action took effect in 1992, regulating occupational exposure to blood borne infectious diseases; while OSHA put its annual compliance cost at $812 million,[36] health care providers reportedly are encountering higher costs.[37]

An important part of the OSHA regulatory process has been thrown into disarray by a recent federal appeals court decision overturning a broad 1989 chemical-exposure regulation expected to cost $788 million annually once it took full effect this year.[38] The decision voiding OSHA's generic (as contrasted with its prior substance-by-substance) approach in setting exposure limits probably dooms a similar rulemaking that had been proposed just a month before the court acted. While the outcome is in doubt, it is not likely to entail a permanent cost-saving. Although both labor and business had objected to the rule, labor argued it was insufficiently stringent.

Incidentally, regulatory critics make unusual bed fellows. A Labor Department proposal to require union dues accounting changes has drawn criticism from the AFL-CIO for being excessively costly and for having understated cost estimates, which unions put at $192 million, more than triple the government's estimate.[39]

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36 Federal Register, December 6, 1991, p. 64003
37 The Wall Street Journal, July 2, 1992, p. B1
38 Albert R. Karr, "Appeals Court Rejects OSHA Method of Setting Chemical-Exposure Limits," The Wall Street Journal
39 The Wall Street Journal, June 23, 1992, p. A1.

Revision to other social regulatory costs:

-The OSHA cost pattern in my previous report entailed annual costs of $8.75 billion in 1988 (in 1988 dollars), rising thereafter at a 5% real rate. The actual OSHA increase for 1992, as noted earlier in discussing OMB's Mid-Session Review, is $1.8 billion, roughly three times the increase I projected in my 1991 paper. It seems reasonable to increase my previous estimates by $1 billion in 1989 and each subsequent year.

-Accessibility was not covered in my previous report, and $4 billion is used here as a conservative annual cost estimate starting in 1992.

-Food labeling probably can be expected to create $500 million of costs in each of the four years 1993-1996.

-Energy conservation regulation accounts for an added $500 million costs in 1992 and $200 million in each subsequent year.

-The HHS lab practices regulation increases costs by $600 million in 1992 and $1,600 million every year thereafter.

C. Economic regulation

1. Efficiency costs

The salutary effect of deregulation has been documented in a variety of ways, as discussed in my 1991 report, and a January 1992 study by the Interstate Commerce Commission provides interesting reinforcement.[40] Among the seven industries the ICC studied, "real output prices declined for every industry since the year of partial or full deregulation;" moreover, the associated improvement in productivity "...was highest for those industries

40 Also see Elizabeth E. Bailey, "Airline Deregulation: Confronting the Paradoxes," Regulation, Summer 1992

(railroads, trucking, and airlines) for which deregulation has been most complete."[41]

Communications.[42] The Cable Communications Policy Act of 1984 led to the partial deregulation of cable television in 1986 when most franchise owners gained power over their rates along with protection from new entry rivalry. This yielded no cost savings; rather "prices have shot up at three times the rate of inflation" due to inadequate competition.[43] The failure to fully deregulate may be costing consumers $6 billion annually.[44] Yet we face some prospect of re-regulation rather than fuller deregulation.[45] If telephone company competition with cable operators were allowed by the regulators, consumers would gain.[46] In recent weeks, the Federal Communications Commission has taken tentative steps to lessen impediments to competition between cable and telephone companies, but major barriers remain, particularly in the form of restrictive state regulation.[47]

The situation in the broader telecommunications marketplace also is one of continuing regulatory burdens, despite the partial deregulation whose hallmark was the break-up a decade ago of the old Bell System. AT&T still cannot reduce prices or introduce new services before filing cumbersome

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41 See Regulation, Spring 1992, p. 26

42 For a good overview, see Robert W. Crandall, "Regulating Communications, The Brookings Review, Summer 1992, pp. 34-39

43 "Hidden Monopolies," U.S. News & World Report, February 3, 1992, p. 48. Also see Paul Farhi, "Keeping an Eye on Cable TV," The Washington Post National Weekly Edition, February 10-16, 1992, p. 6.

44 "Hidden Monopolies," U.S. News & World Report, February 3, 1992, pp. 47-48.

45 See James C. Miller III, "Reregulating Means Tying Up Cable," The Wall Street Journal, April 7, 1992, and Mark Robichaux and Mary Lu Carnevale, "Cable-TV Firms Haunted Again by House Measure to Reregulate, The Wall Street Journal, July 22, 1992

46 See Robert W. Crandall, "Relaxing the Regulatory Stranglehold on Communications," Regulation, Summer 1992

47 Mary Lu Carnevale, "FCC Opens Phone Sector to Cable Firms," The Wall Street Journal, August 6, 1992, p. B1

notices with the Federal Communications Commission, and 2500 submissions were required in 1991 compared to 400 in the year before deregulation.[48] The ICC study referred to above found that the telephone industry was the only one in which real output prices declined more slowly following its (partial) deregulation. Robert W. Crandall estimates that efficient pricing of telephone service, now prevented by continuing regulatory strictures, would yield a $3 to 11 billion societal saving annually (the latter amount would necessitate reform of state as well as federal regulation).[49] However, this estimate has been challenged as being overly optimistic.[50]

Banking and financial. The financial services industry continues to labor under a regulatory regime well-suited "...to punish healthy, well-managed banks and to reward sick, poorly-managed banks."[51] Here too, limited and imbalanced deregulation, in this case of interest rates that institutions could offer depositors, led to problems that unfairly give deregulation a bad name in some quarters. Outmoded restrictions on bank ownership and branching coupled with the absence of risk-based deposit insurance impose costs that are not readily measured but that "pigeonhole banks into shrinking and unprofitable lines of business."[52] Moreover, while interstate banking barriers are not insurmountable, repeal of the McFadden

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48 Robert E. Allen, "Let's Have Real Competition in Phone Market," The Wall Street Journal, January 8, 1992.

49 Robert W. Crandall, After the Breakup: U.S. Telecommunications in a More Competitive Era (Washington, DC: The Brookings Institution, 1991), pp. 145-16-

50 Paul W. MacAvoy, "Deregulation by Means of Antitrust Divestiture: How Well Has It Worked in the Telephone Industry?" Regulation, Winter 1992, Vol. 15, No. 1, p. 90.

51 Jonathan R. Macey, "Regulation of the Financial Services Industry: Stories of Unplanned Obsolescence," AEI Annual Policy Conference paper, Washington, DC December 1991, p. 14; a similar point is made by Lawrence J. White, "Don't Handcuff the Healthy Banks," The New York Times, May 17, 1992, p. 13

52 Macey, op.cit., p. 15

Act certainly would lessen the complexity of interstate bank expansion.[53] The continuing regulatory barriers to interstate and branch banking may be costing about $10 billion annually.[54] The total cost of compliance with bank regulation probably exceeds this figure, which represents economies foregone due to current rigidities. The American Bankers Association estimates that regulatory compliance activities cost member banks $10.7 billion in 1991.[55] The bankers feel most burdened by the requirements of the 1977 Community Reinvestment Act, which White characterizes as "at best obsolete."[56]

The regulatory situation in financial markets is more difficult to appraise, with views ranging from "in the case of the SEC, market forces have rendered the regulators irrelevant"[57] to that of Jarrell who feels the SEC combines "strict rules and their vigorous enforcement."[58] Enough burden exists to enable the SEC and CFTC recently to announce a hundred proposals to reduce their red tape, in the spirit of the current regulatory moratorium.[59] Meanwhile, problems that have arisen in the insurance industry, traditionally exempt from most federal regulation as the province of state regulators, are prompting "talk of a new wave of regulation" at the federal level.[60]

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53 Steven Lipin & Marj Charlier, "As National Banking Nears, Mergers Sweep Across State Borders," The Wall Street Journal, June 22, 1992, p. A1

54 Lowell Bryan, "Saving Interstate Banking," The Wall Street Journal, November 15, 1991.

55 American Bankers Association, "Survey of Regulatory Burden," June 1992; see also Paulette Thomas, "U.S. Regulations Cost $10.7 Billion in '91, Banks Say," The Wall Street Journal, June 18, 1992

56 Lawrence J. White, "Don't Handcuff the Healthy Banks," The New York Times, May 17, 1992, p. F13

57 Jonathan R. Macey, "Regulation of the Financial Services Industry: Stories of Unplanned Obsolescence," AEI Annual Policy Conference paper, Washington, DC December 1991, p. 14

58 Gregg A. Jarrell, "SEC Crimps Big Board's Future," The Wall Street Journal, June 19, 1992

59 Kevin G. Salwen, "SEC, CFTC Unveil About 100 Moves to Trim Red Tape," The Wall Street Journal

60 Dean Foust, "The Day of the Regulator Dawns--But for How Long?" Business Week, November 4, 1991, p. 128; also see Paulette Thomas, "Dingell Unveils Insurance Industry Bill That Would Impose U.S. Rules on Firms," The Wall Street Journal, April 10, 1992, p. A4;

Transportation. The 1977-82 deregulation initiatives have proven so successful--with even larger annual savings than previously reported--that it is easy to lose sight of the remaining regulatory burdens in transportation. Thomas Gale Moore puts this residual burden from federal regulation of surface transportation at $28 billion annually.[61] This spring the Department of Transportation proposed some 300 regulatory changes to lessen this burden, though with expectations of rather modest savings.[62] Additional savings--perhaps $12 billion annually--would arise were the federal government to preempt state regulation of intrastate trucking rates; this is one instance in which firmer federal regulation clearly would lessen societal burdens.[63] Even air transportation still has non-trivial burdens, as regulatory constraints on airport landing fees are estimated to create annual costs of nearly $4 billion in time and fuel wasted due to congestion.[64]

Energy. One bright spot of economic deregulation involves the natural gas industry; in April 1992 the Federal Energy Regulatory Commission issued new regulations that in effect "end the regulated monopoly that pipelines have had to sell natural gas to local utilities and other buyers by allowing the buyers to bargain directly with producers."[65] Most remaining non-nuclear energy regulation is at the state government level, although there are federal

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and William T. Warren, "Wrestling Over Insurance Regulation," State Legislatures, June 1992, p. 35.

61 By contrast, Moore cites annual savings of $38-56 billion from past trucking and rail reforms, in "Unfinished Business in Motor Carrier Deregulation," Regulation, Summer 1991, pp. 53-54.

62 See OMB's Mid-Session Review, op.cit., p. 396 and "Changes Proposed in Transport Rules," Democrat and Chronicle, Rochester NY, 1992

63 Thomas Gale Moore, "Unfinished Business in Motor Carrier Deregulation," Regulation, Summer 1991, p. 54; also see Elizabeth Lesly, "What Do Sears, Nader, Frito-Lay, and Bush Have in Common?" Business Week, April 6, 1992.

64 Steven A. Morrison and C. Winston, "Enhancing the Performance of the Deregulated Air Transportation System," Brookings Papers on Economic Activity: Microeconomics, 1989

65 Thomas D. Hayes, "New Rules Set for Gas Pipelines," The New York Times, April 9, 1992, p. D1.

regulatory barriers to efficient market operation as well. Joskow concludes that the Public Utility Regulatory Policy Act has organizational, ownership and financing restrictions that constrain unduly the expansion of competitive electricity generation markets; in addition, "for reasons that are a complete mystery, FERC has retreated from its very productive efforts in the early 1980s to expand market-based pricing of wholesale power generally."[66] As to nuclear energy, Rothwell concludes that "under the current regulatory structure, nuclear power cannot survive," an ominous though unquantified assessment of regulatory burden.[67]

Agriculture. "It is a fundamental tenet of American agricultural policy that farmers deserve more for their wheat, corn or what have you than the free market can offer."[68] One manifestation of this tenet is that "in a normal year, the government allows Americans to consume two foreign peanuts per citizen."[69] Another is the intricate system of federal marketing orders that prevent sale of much "under-sized" produce such as peaches and nectarines, resulting in the waste of much edible and nutritious fruit.[70]

> "Millions of peaches and nectarines originally bound for low-income consumers in central Los Angeles are being destroyed here--at the order of the U.S. government...[because they are]...a fraction smaller than the minimum standard."[71]

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66 Paul L. Joskow, "Expanding Competitive Opportunities in Electricity Generation," Regulation, Winter 1992, Vol. 15, No. 1, pp. 33-34.

67 Geoffrey Rothwell, "Can Nuclear Power Compete," Regulation, Winter 1992, Vol. 15, No. 1, p. 74.

68 "America's Farm Subsidies: The Trough," The Economist, June 27, 1992, p. 21

69 Op.cit., p. 22

70 See Lou Cannon, "Grapes (and Peaches) of Wrath," The Washington Post National Weekly Edition, August 3-9, 1992, p. 33, and James Bovard, "A Fruitless Massacre in California," Wall Street Journal, August 11, 1992.

71 John Eckhouse, "Outrage Over Destruction of Small Fruit," San Francisco Chronicle, July 11, 1992, p. B1

Gardner found that U.S. agricultural programs as of 1987 were creating annual deadweight losses of $6 billion.[72] "The U.S. Department of Agriculture estimated in the mid-1980's that total deregulation of the dairy industry would save consumers nearly $2 billion ..." and that elimination of sugar import quotas would save them another $2 billion.[73]

International trade. Trade restrictions such as that on sugar continue to exact a substantial toll on American consumers. Indeed, our 3,600 product quotas are now boosting costs by up to $75 billion annually according to some analysts,[74] and the steel industry is in the midst of yet another push for protection.[75] Moreover, Niskanen contends that this cost to consumers had doubled from 1980 to 1986 when it reached $65 billion.[76] Trade restrictions are often much more subtle than quotas or tariffs. This spring Japan announced it would lower its self-imposed quota on auto shipments to the U.S. by 28 percent from the level set in 1985, presumably in an effort to head off stronger protectionist measures in the U.S. Japanese shipments to the U.S. had been declining prior to this action, so the new voluntary quota has quite limited direct effect.[77] Yet it is symptomatic of informal steps that push up consumer costs, steps that would not be taken were the threat of stronger regulatory measures not so strong. Similarly, certain regulations adopted

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72 Bruce L. Gardner, "The United States," in F. Sanderson (ed), Agricultural Protectionism in the Industrialized World (Washington: Resources for the Future, 1990), p. 52

73 "Hidden Monopolies," U.S. News & World Report, February 3, 1992, pp. 44-45. Also see Scott Kilman, "Deregulation of Milk Prices is Considered," The Wall Street Journal, November 26, 1991.

74 Keith Bradsher, "As U.S. Urges Free Markets, Its Trade Barriers are Many," The New York Times, February 7, 1992, p. A1.

75 Rose Gutfeld and Dana Milbank, "U.S. Steel Firms Get Early Boost in Import Fight," The Wall Street Journal, August 11, 1992

76 William A. Niskanen, "U.S. Trade Policy," Regulation, 1988. No. 3, ... 34.

77 Christopher J. Chipello, "Limit on Car Exports to U.S. Is Reduced by Japan but Big Three Aren't Satisfied," The Wall Street Journal, March 20, 1992.

primarily for other societal objectives--such as auto fuel economy (CAFE) standards--come to be enforced in ways that interfere with international trade (to say nothing of CAFE's adverse safety effects).[78] Many of our trade restrictions have been on the books for decades. The Jones Act of 1920 drives up shipping costs between U.S. ports, and the U.S. International Trade Commission estimates its abolition "...would save consumers as much as $10.5 billion as a result of lower shipping costs, while U.S. maritime operators would lose only $630 million in profits."[79] The North American Free Trade Agreement, depending on final implementation details, also should be a significant step forward in lessening trade barriers.

Revisions to economic regulation efficiency cost estimates: Continuing regulatory constraints in transportation appear more costly than previously thought, so I have increased my cost estimate by $10 billion annually for surface transportation and by $5 billion for the Jones Act for each year. Banking regulation compliance costs not caught in the paperwork category add an additional $5 billion annually throughout the period. Estimates for other sub-categories remain unchanged.

2. Transfer cost concept revisited.

According to the Congressional Budget Office, textile and apparel trade restrictions now create $1.7 billion in transfer costs annually, all paid by U.S. consumers.[80] Yet, the treatment of such costs remains controversial, as indicated by MacAvoy's comments quoted near the beginning of this report.

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78 See, e.g., Thomas Gale Moore, "A Hidden Culprit in Auto Imports, The Wall Street Journal, January 14, 1992; and Robert W. Crandall, "Corporate Average Fuel Economy Standards," Journal of Economic Perspectives, Spring 1992, pp. 171-179

79 James Bovard, "Torpedo Shipping Protectionism," The Wall Street Journal, November 26, 1991.

80 Congressional Budget Office, "Trade Restraints and the Competitive Status of the Textile, Apparel, and Nonrubber-Footwear Industries," December 1991, p. xviii

Transfer costs are of interest for two different reasons. On the one hand, the artificially pegged prices that give rise to most transfers do create net losses for the American economy to the extent that international trading patterns are affected (as with sugar and textiles); it is only if both winners and losers are domestic groups that net losses to society are avoided. On the other hand, the very existence of such transfers itself induces rent-seeking behavior intended to protect and increase these transfers--a basic function of much of the Washington legal and lobbying community.[81] James Bovard contends "U.S. maritime lobbies have been so generous [contributing over $1 million annually in campaign contributions to maintain support for the Jones Act] that three of the past five chairmen of the House Merchant Marine Subcommittee have been indicted for criminal links to the maritime industry." The size of transfer payments then may be a crude, upper-bound proxy for the level of real resources devoted to rent-seeking. In this manner, a purely redistributive transfer from one interest group to another spawns and is accompanied by real resource costs intended to protect or attack the transfer itself:

> "The sugar industry saw import quotas come under fire in the debate over the 1990 farm bill, so its political action committees sweetened campaign contributions by 41 percent over the previous election cycle, to $1.7 million. The funds helped sugar producers muster enough votes to prevent price targets from being lowered by 11 percent."[82]

It may be possible to generate additional estimates of such costs by gathering data on lobbying budgets. When the concept of rent-seeking is broadened to encompass lobbying activity aimed at spending and taxation as well as regulation, cost "... estimates cluster in the range of ... $300-700

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81 The Wall Street Journal, November 26, 1991.

82 "Politics and Profits: Loyalty's High Price," U.S. News & World Report, February 3, 1992, p. 44.

billion."[83] Since regulatory costs represent roughly one-third of the total federal burden (as shown in Figure 3), perhaps a third of this $300-700 lobbying cost figure can be attributed to regulation--some $100-233 billion in 1991. This comports with my independently derived estimate for transfer costs of economic regulation for that year of $130 billion, not all of which represents usage of real resources as already noted. (On the other hand, I have made no estimate of transfer costs associated with other than economic regulation.)

Revisions to transfer cost estimates: I have increased my estimate by $20 billion annually to reflect transfer costs associated with those economic regulations (noted in the preceding section) that were underestimated in the 1991 report.

D. Process regulation

1. Paperwork burden.

The paperwork burden estimates my 1991 report presented for 1990 and subsequent years need to be increased, based on the government's Information Collection Budget for fiscal year 1991, released after completion of those estimates.[84] The changes are:

	increase (from 1991 report) in billions of burden hours
1990	0.969
1991	1.106
1992 and later years	1.379

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[83] Jonathan Rauch, "The Parasite Economy," National Journal, April 25, 1992, p. 984

[84] Office of Management and Budget, Information Resources Management Plan of the Federal Government, November 1991, pp. II-4 to II-7, Tables 4, 5, 6

Compliance with tax laws and regulations, which continues to dominate calculated paperwork burdens, is in fact more costly than any of these figures indicate, for two reasons. First, cumbersome reporting requirements prompt substantial non-compliance, which while holding down reportable burden hours produces revenue losses as well as undermining the integrity of the tax system. For example, only 25 percent of the two million household employers of domestic workers file their required tax forms, due largely to the complexity of the process: "...a 942 form for federal taxes quarterly, and 940, W-5 and W-3 forms annually...[plus quarterly] state unemployment tax forms and every year a form W-2."[85] This kind of problem is receiving some attention, as evidenced by a May 1992 proposal from the IRS that would end the need "...to file separate employment tax forms for each employee to the IRS, the Social Security Administration, and state and local tax agencies."[86] Of course whether such reforms significantly lessen total burden hours will depend in part on the extent to which the 1.5 million non-filing households decide to begin complying with tax regulations.

Secondly, one recent study concludes that actual burden hours attributable to tax compliance exceed those shown in this report's tables. Payne's review of an IRS-commissioned study by Arthur D. Little indicates that the 1985 total was 5.427 billion hours, substantially higher than the 3.556 billion hours that this report derived from the government's Information Collection Budgets.[87] Moreover, Payne uses a $28.31 per hour figure (1985 dollars) to compute the total cost of these burden hours, to which he then adds

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85 Lucinda Harper, "Many Flout the Law on Reporting Taxes for Domestic Help," The Wall Street Journal, April 15, 1992, p. 1

86 "IRS Announces Plan to Help Businesses Deal with Tax Code," The Wall Street Journal, May 13, 1992, p. B5

87 James L. Payne, "Unhappy Returns," Policy Review, Winter 1992, p. 19

an estimated $5.8 billion paid by individuals for professional tax return preparation.[88] By contrast, my report relies on a more conservative single estimate of $20 per hour (1988 dollars) inclusive of all costs. The two sets of results:

	Annual cost in billions for tax compliance	
	1985	1990
Hopkins	$ 71	$119
Payne	159	232

One other adjustment may be warranted that would increase these cost estimates across the entire period. 1987 and 1989 reports of the General Accounting Office concluded that agencies not uncommonly evade Paperwork Reduction Act approval requirements by continuing to collect data whose approval has expired and through "bootlegged" paperwork.[89] Moreover, as a result of court rulings (especially Dole v. Steelworkers 110 S. Ct. 929 (1990)), some information collections that impose burdens on the private sector are exempt from the Paperwork Reduction Act review process, so that the reported totals are not truly comprehensive.[90] However, it appears that the size of these adjustments are not large, probably well under five percent of the totals now shown.

Revisions to paperwork cost estimates: For 1990 and subsequent years, paperwork costs are $20-35 billion higher due to the larger burden hour count explained above.

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88 Op.cit., p. 20. In addition, Payne offers estimates of the indirect costs (mainly disincentive effects) of taxation that are not included here.

89 U.S. General Accounting Office, "Information Management: Status of Formerly Approved Paperwork Requests," GAO/IMTEC-87-22, and "Paperwork Reduction: Mixed Effects on Agency Decision Processes and Data Availability," GAO/PEMD-89-20, p. 59.

90 Office of Management and Budget, Information Resources Management Plan of the Federal Government, November 1991, p. II-7.

2. Mandates to State-local governments.

No estimates of these costs were included in the report's original tables and charts because of inadequate data. Subsequently an informal staff paper for a Spring 1992 workshop held by the U.S. Advisory Commission on Intergovernmental Relations (ACIR) concluded that "no single source of data or widely accepted cost estimating technique exists for preparing estimates of the fiscal burden of federal mandates," although some methodological work is underway. Nonetheless some indicators do exist of the magnitudes of mandated burdens, one of which is derived in a draft study being prepared for ACIR by Beam, Colella and Conlan.[91] These authors conclude that "the most complete database available for estimating the cumulative costs of new intergovernmental regulatory legislation enacted over the past decade" is provided by the Congressional Budget Office's ad hoc estimates of the costs that significant new bills, if adopted, likely would impose on state-local governments.[92] CBO issued about 3,500 such estimates from 1983 to 1988, finding 89 bills that would impose such costs in excess of $200 million each.[93] Beam et al. restrict their attention to actually enacted legislation, finding usable CBO estimate for only the following eight new "regulatory" statutes:[94]

Social Security Amendments of 1983
Medicare in Consolidated Budget Reconciliation Act of 1985
Education of Handicapped Children Act 1986 Amendments
Safe Drinking Water Amendments of 1986
Ocean Dumping Ban Act of 1988
Lead Contamination Control Act of 1988
Hazardous and Solid Waste Amendments of 1984

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91 David Beam, Cynthia Colella and Timothy Conlan, "Federal Regulation of State and Local Governments: Regulatory Federalism--A Decade Later," Draft report for the U.S. Advisory Commission on Intergovernmental Relations. February 1992

92 Op.cit., pp. V-8 and V-14.

93 Op.cit., p. V-10.

94 Op.cit., Table 5-7, p. V-17.

The annual compliance costs for the eight was just over $2 billion in 1990, but roughly half of this was for Social Security and Medicare requirements that represent increased revenues to the federal government (and hence are more like a tax than a regulation).[95] Unfortunately, this is a quite small subset of relevant legislation adopted during the period. The authors could find no CBO cost estimates for a variety of important new mandate-bearing statutes, including:[96]

Highway Safety Amendments of 1984
Child Abuse Amendments of 1984
Voting Accessibility for the Elderly and Handicapped Act
Emergency Planning and Community Right to Know Act of 1986
Commercial Motor Vehicle Safety Act of 1986
Water Quality Act of 1987
Drug-Free Workplace Act of 1986
Surface Transportation Assistance Act of 1982
Voting Rights Act Amendments of 1982
Americans with Disabilities Act
Clean Air Act Amendments of 1990
Education of Handicapped Children's Act 1990 Amendments
Fiscal 1991 Budget Reconciliation Act

Moreover, CBO's estimates--of necessity made long before the implementing regulations emerge from federal agencies--likely understate actual compliance costs. For example, Beam et al. note one instance (Safe Drinking Water 1986 Amendments) in which the implementing agency's later cost estimate proved to be double that of the CBO estimate.[97] Hence, the result is merely a small segment of mandated costs, albeit one that has been rising rapidly since 1986.

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95 Op.cit., Table 5-8, p. V-19. The authors also present a larger total of $3.6 billion, but that includes costs of conditions attached to grant applications, which this report does not treat as a regulation.

96 Op.cit., Table 5-7, p. V-17.

97 Op.cit., p. V-20.

The National Conference of State Legislatures reports that in April 1992 some 150 bills containing mandates were pending in the Congress, just seven of which if adopted would impose another $1.6 billion in costs this year.[98] Indeed, there are so many mandate bills that they in turn have given rise to the introduction of some 20 mandate relief bills in the 102nd Congress.[99]

An alternative way to get at the amount of mandated costs is to start with funding analysis provided by the Environmental Protection Agency. State and local governments contribute roughly 25 percent of the costs of complying with federal environmental regulation, a basically constant figure during the entire 1980-2000 period.[100] This means that in 1991, for example, mandated costs just for environmental purposes reached $31 billion. The total level of mandated costs facing state-local governments thus is some multiple of this amount. Choice of this multiple requires some sense of the relative costliness of environmental and all other mandates. The distribution of pending bills offers very limited guidance. At present, environmental mandates comprise only 11 percent of mandate-containing bills (another sixty percent are in the three areas of health care, corrections and human services).[101] Unfortunately it is not clear how costly the bills would be in each area nor how likely their passage may be, and others also have found elusive the search for mandated costs outside the environmental area.[102]

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98 "Mandate Watch List," National Conference of State Legislatures, Washington, DC, April 1992 (p. 1) and Martha A. Fabricius, "The 102nd's Multiplying Mandates," State Legislatures, January 1992, p. 18.

99 National Conference of State Legislatures, "Mandate Watch List," July 1992, p. 1

100 U.S. Environmental Protection Agency, "Environmental Investments: The Cost of a Clean Environment--A Summary," EPA-230-12-90-084, December 1990, p.2-5.

101 "Mandate Watch List," National Conference of State Legislatures, Washington, DC, April 1992, p. 1.

102 See, e.g., Joseph F. Zimmerman, "Federally Induced State and Local Governmental Costs," a paper for the 1991 Annual Meeting of the American Political Science Association; and Michael D. Hinds, "U.S. Adds Programs with Little Review of Local Burdens," The New York Times, March 24, 1992, p. 1.

Thus heroic assumptions are needed to generate total mandate costs. If environmental costs are about 75-80 percent of the total, then state-local governments would be expending $40 billion this year to comply with all federal mandates. On the other hand, if environmental costs are only 40 percent of the total, then that mandate cost total would be $78 billion. In any event, the cost of mandates for the purposes of this kind of report should be presented in two ways--as a residual amount calculated by netting out those mandate costs already included in any of the other regulatory cost categories, and as a total mandate burden amount. Only the former should appear in the aggregate regulatory cost tables and charts. This avoids double counting problems while still providing a comprehensive estimate of burdens that the federal government places on state-local governments. All environmental mandate spending and much (perhaps three-fourths) of other mandate spending (e.g., accessibility requirements) are caught in other regulatory categories, so the residual mandate costs properly added to the report's tables probably are in the range of $2-12 billion for 1991. For years other than 1991, mandate costs outside the environmental area probably follow the growth pattern used for the "other social regulation" category.

In addition, all regulation has indirect effects (such as lessened corporate productivity, or in the case of local governments induced cutbacks in other public services) that lie beyond the scope of this report's assessment of direct compliance costs. In the mandate context, one other type of indirect effect is suggested by findings of the National Consumer Law Center:

> "Boston water and sewer bills have risen 39% in the past two years as the costs of cleaning up Boston Harbor have been phased into

rates...[and] water shutoffs as a result of nonpayment of water bills have tripled."[103]

When local governments are able to pass along mandated costs in higher user fees, they may find their social welfare case load rising as one indirect effect.

Revisions to mandate estimates: No cost estimates were included previously. Now I put costs to state-local governments (not elsewhere included) at $7 billion in 1991, a figure that is assumed to be rising at a 5% real rate throughout the period.

3. Health care regulatory costs

In the absence of any new information for this category, the costs remain unchanged from my 1991 estimates, except that now only the midpoint is used of the range previously shown (i.e., the paper now assume that some 3/8 of "excessive" health care processing costs, as defined in the 1991 report, is attributable to federal regulation).

Concluding Observations

Tax-related paperwork and pollution control now are responsible for by far the largest portion of regulatory burden, and the biggest increases have been occurring in the latter. Figures 2 and 4 show these trends. Moreover, while instances can be found of cost-reducing change--as noted earlier, for example, in connection with the moratorium--those adopted since 1986 have not been big enough to drive down total costs in any of the broad areas featured in this report.

Within each area, the types of regulation that impose most costs are shown in the Table 4. Cost size alone is by no means an indicator of the reasonableness of a regulation, but it can serve to identify areas where close

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[103] As reported in The Wall Street Journal, January 15, 1992.

scrutiny could have a substantial payoff. Among economic regulations, transportation, international trade restrictions and communications together account for about 80% of regulatory costs. In the environmental area, water pollution regulation at this point still is dominant at 45% of all spending. As to other social regulation, worker health and safety and auto safety now represent about 65% of regulatory compliance costs. Tax paperwork, as already noted, is the major contributor (topping 80%) to process costs.

No regulation is without at least some supporters, of course, and the zeal of its defenders may well increase with the size of its costs, as the rent-seeking literature contends. Even the trucking industry, long viewed by most economists as an obvious candidate for complete deregulation, and by some as an area already successfully deregulated, has its regulatory advocates--the National Association of Regulatory Utility Commissioners testified as recently as March 1992 before a House committee strongly opposing economic deregulation of the motor carrier industry. Pointing out opportunities to save then may need to be buttressed with institutionalized reform mechanisms beyond those now in place. One such is contained in a bill currently before the Senate, the Regulatory Accountability Act (S. 2942). If adopted, it would couple use of a benefit-cost decision criterion with a regulatory cost offset requirement. No new regulatory costs would be permitted unless matched by equal-sized regulatory cost reductions elsewhere and unless promising on benefit-cost grounds. Since public health and safety needs almost surely will continue to give rise to regulatory initiatives, such legislation usefully could accelerate the search for deregulation options. Since regulatory costs have come to equal half the size of total federal receipts (see Figure 3), the need is genuine to uncover sensible ways to constrain this burden.

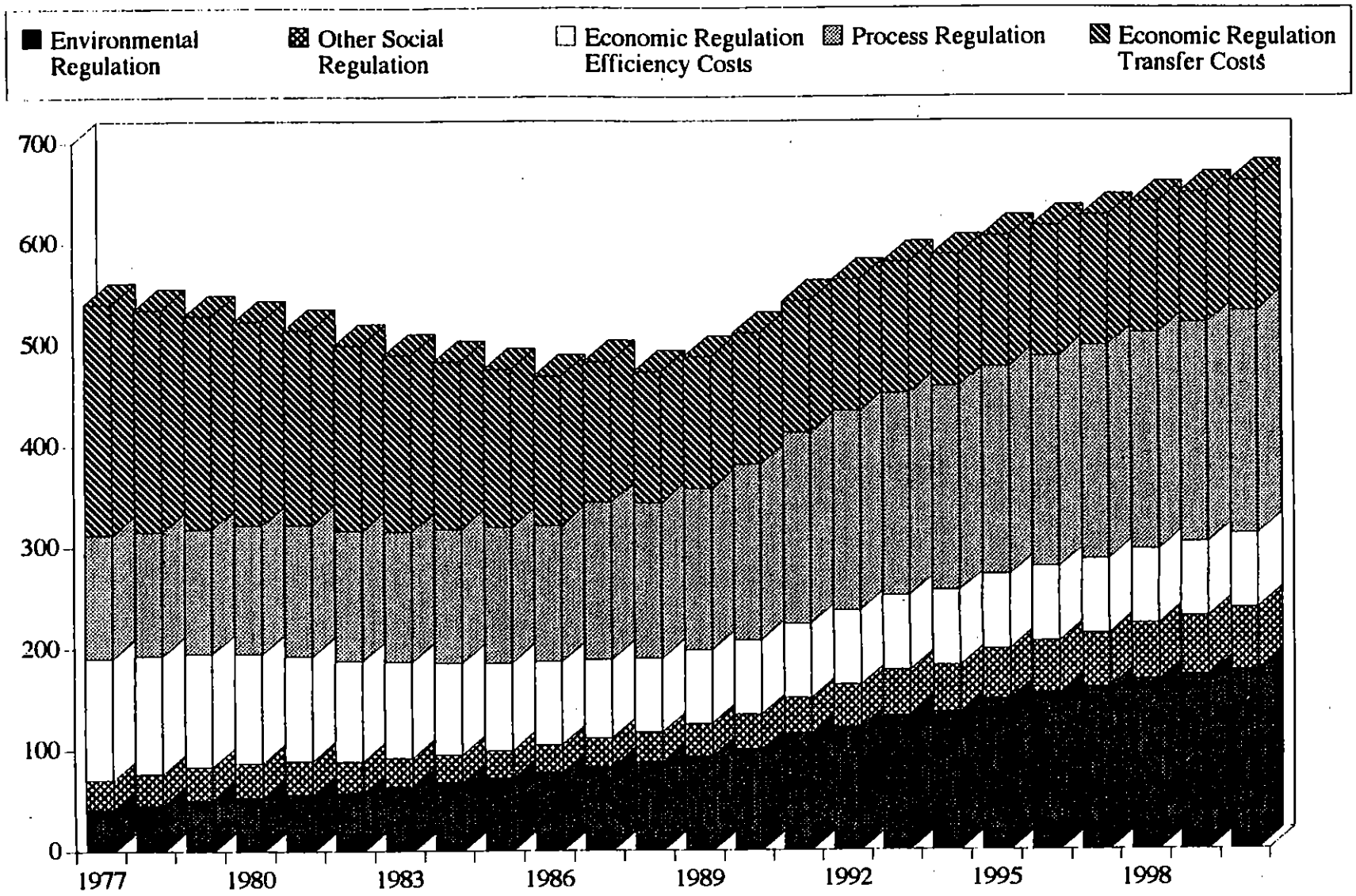
APPENDIX

Revised Estimates of
Cost of Federal Regulation

Table 1 - Annualized Regulatory Costs in Billions of 1991 Dollars

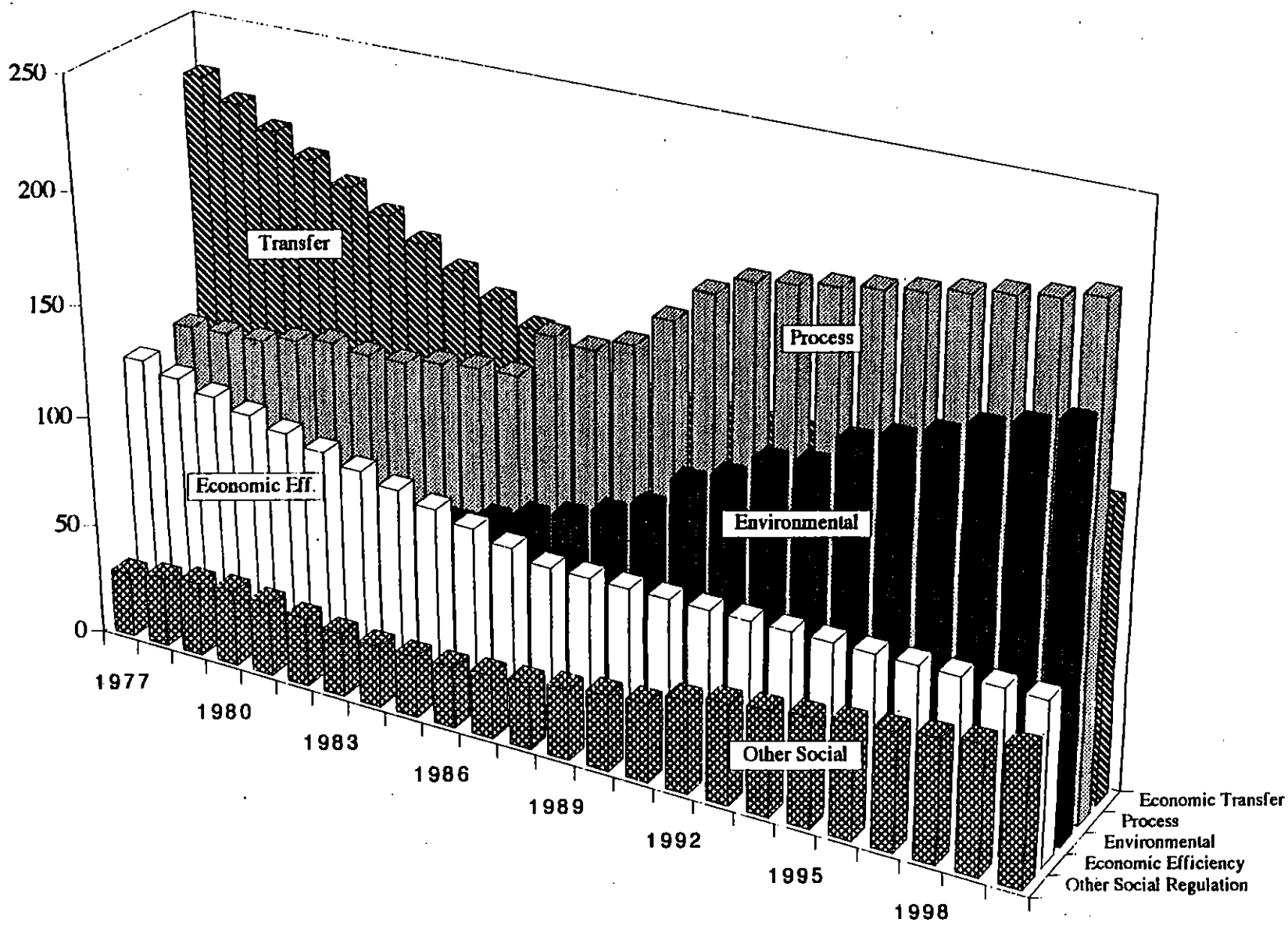
Year	Environmental Regulation	Other Social Regulation	Economic Regulation Efficiency Costs	Economic Regulation Transfer Costs	Process Regulation	Total Regulatory Costs
1977	42	29	120	228	122	540
1978	46	31	116	219	122	534
1979	50	33	112	210	123	528
1980	53	35	107	201	127	523
1981	56	33	103	192	130	514
1982	58	31	99	183	128	499
1983	64	29	94	174	128	490
1984	68	28	90	165	132	483
1985	72	28	86	157	134	476
1986	78	28	82	148	134	469
1987	83	29	77	139	156	483
1988	87	30	73	130	153	473
1989	93	32	73	130	159	487
1990	100	34	73	130	174	511
1991	115	36	73	130	189	542
1992	122	42	73	130	197	564
1993	133	45	73	130	200	581
1994	136	47	73	130	202	588
1995	150	49	73	130	205	607
1996	155	52	73	130	208	617
1997	161	53	73	130	211	628
1998	168	56	73	130	214	640
1999	173	58	73	130	217	650
2000	178	61	73	130	221	662

Figure 1. Annualized Regulatory Compliance Costs, 1977-2000, in Billions of 1991 Dollars



Source: Table 1

Figure 2. Annualized Regulatory Costs, 1977-2000, by Category, in Billions of 1991 Dollars



Source: Table 1

Table 2. Federal Receipts and Regulatory Costs per Household in 1991 Dollars

Year	Households (thousands)	Federal Receipts per Household	Total Regulatory Costs per Household	Combined Federal Burden per Household
1977	74,982	10,179	7,205	17,384
1978	76,914	10,420	6,947	17,367
1979	78,845	10,872	6,697	17,569
1980	80,776	10,685	6,471	17,156
1981	81,979	11,050	6,273	17,323
1982	83,181	10,480	6,000	16,480
1983	84,384	9,628	5,801	15,429
1984	85,586	10,166	5,643	15,809
1985	86,789	10,716	5,482	16,197
1986	88,458	10,754	5,302	16,056
1987	89,479	11,519	5,403	16,922
1988	91,066	11,658	5,197	16,855
1989	92,830	11,971	5,251	17,223
1990	94,227	11,789	5,424	17,213
1991	95,443	11,046	5,683	16,729
1992	96,659	11,107	5,831	16,938
1993	97,876	11,881	5,934	17,816
1994	99,092	12,646	5,935	18,581
1995	100,308	13,223	6,049	19,273
1996	101,433	13,821	6,083	19,904

Source of data on number of households: U.S. Bureau of the Census, *Statistical Abstract of the United States: 1990* (Washington, DC: U.S. Government Printing Office, 1990), p. 45, with author's extrapolated estimates for intervening years not included in the *Abstract*).

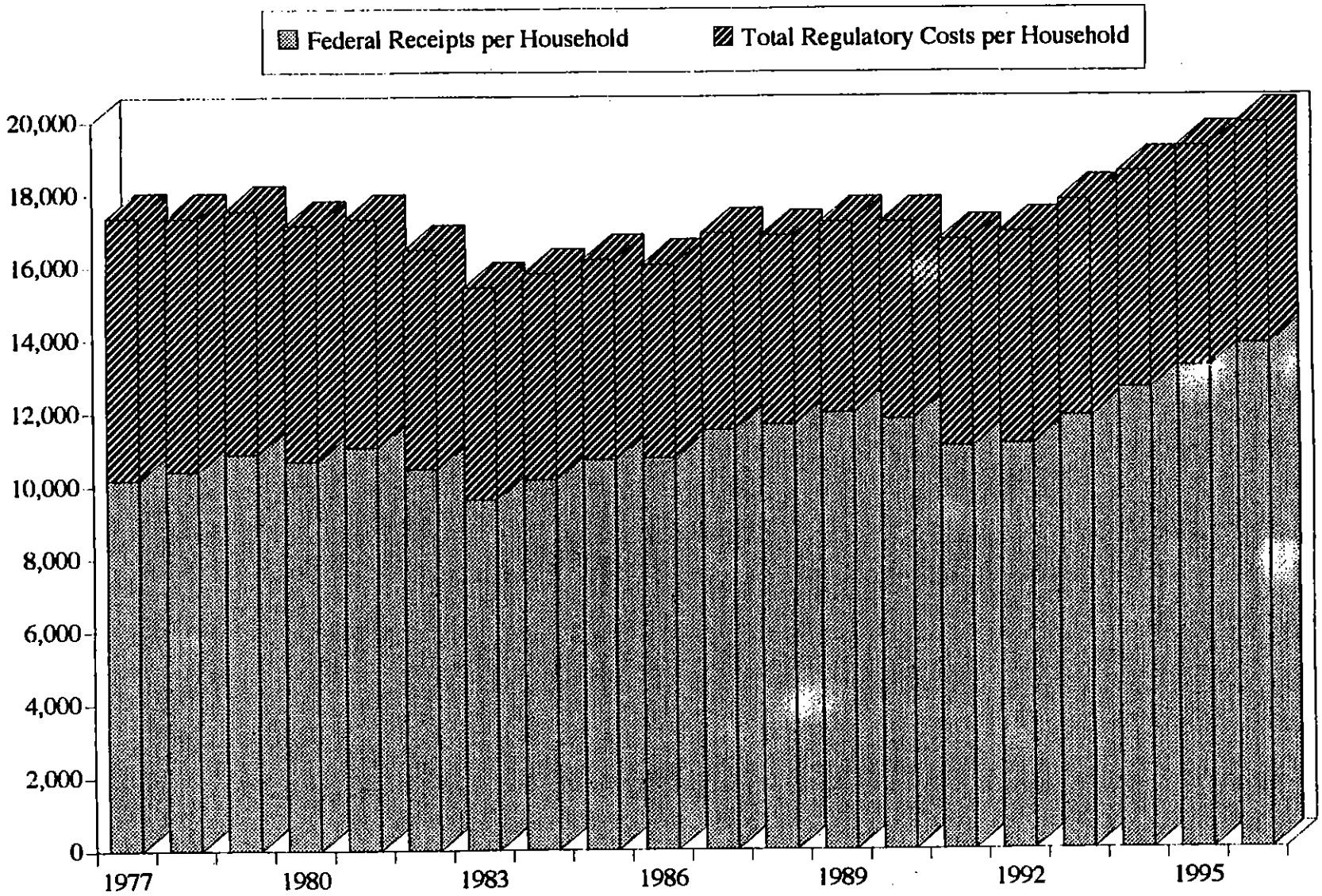
Source of data on government receipts: *Budget of the United States Government, Fiscal Year 1992*, Part Seven, Table 1.3; *Mid-session Review: The President's Budget and Economic Growth Agenda, July 24 1992*, Part 2, Table 2-12, adjusted to 1991 dollars using the Consumer Price Index.

Table 3. Environmental Regulatory Compliance Funding, Percentage Distribution

Year	EPA	Other Federal	State - Local	Private
1977	7.1	3.4	26.7	62.8
1978	7.5	3.3	25.8	63.4
1979	8.0	3.2	25.0	63.8
1980	8.7	3.2	25.1	63.0
1981	9.1	2.7	25.5	62.7
1982	9.3	2.7	26.5	61.5
1983	9.1	2.7	26.0	62.2
1984	8.9	2.6	25.7	62.8
1985	8.9	2.9	25.7	62.5
1986	8.7	3.2	25.6	62.5
1987	8.8	3.1	25.1	63.0
1988	8.9	3.2	24.9	63.0
1989	8.8	3.6	24.6	63.1
1990	8.7	3.9	24.3	63.2
1991	8.5	4.1	24.2	63.1
1992	8.2	5.0	24.3	62.6
1993	8.1	5.5	24.4	62.0
1994	8.1	6.2	24.7	61.0
1995	8.0	6.6	24.8	60.6
1996	8.0	7.0	24.8	60.3
1997	7.9	7.3	24.8	60.0
1998	7.8	7.6	24.6	60.0
1999	7.7	8.0	24.6	59.6
2000	7.7	8.4	24.5	59.5

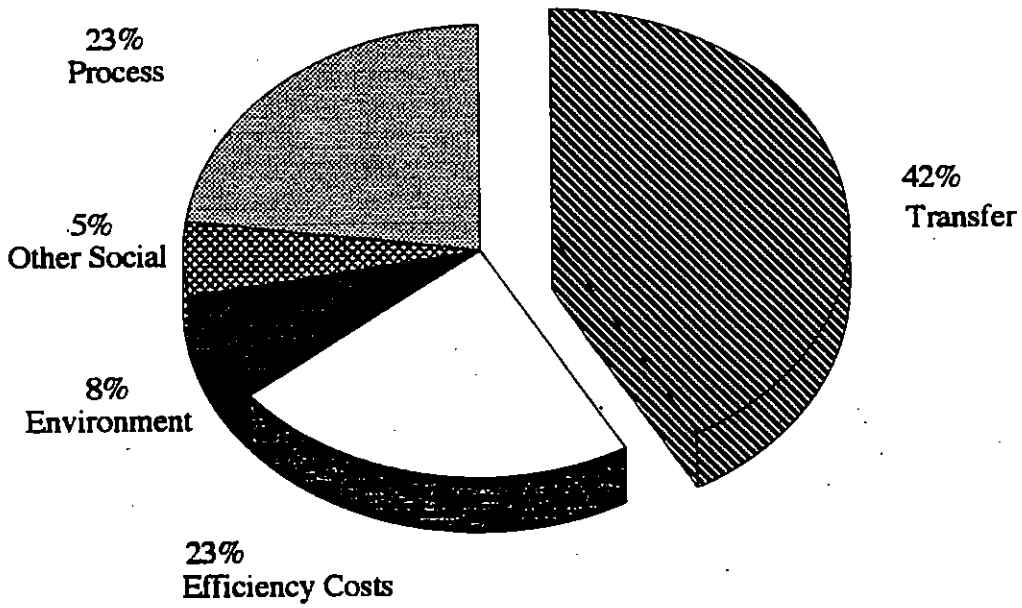
Source: *Environmental Investments: The Cost of A Clean Environment* (Washington D.C.: Environmental Protection Agency,1990), Table 8-12D E

Figure 3. Federal Receipts and Regulatory Costs per Household in 1991 Dollars.

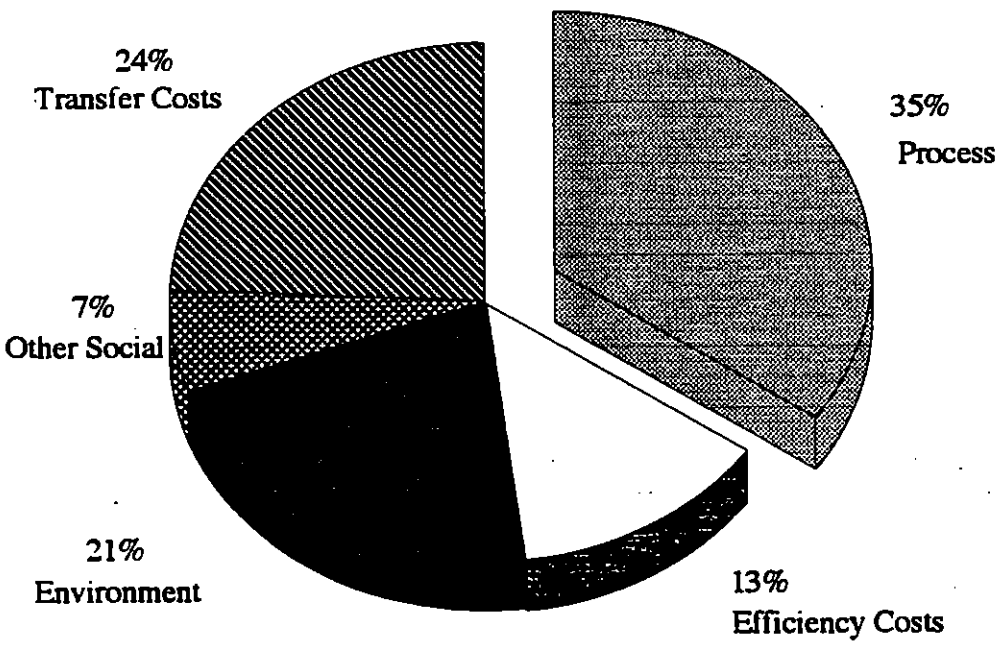


Source: Table 2

Figure 4. Percentage Distribution of Regulatory Costs



1977



1991

Source: Table 1