How Regulations Add to the Cost of Government

*By **Ivan Osorio** on 4.18.11 @ 6:15PM*

As many of us rush to finish filling out our tax returns, we should remember that what we pay out in taxes -- and how government spends that money -- is only part of what government costs us.

The cost burden imposed by regulations lies beyond the federal budget, extending the government's reach through mandates and other requirements -- for which many of the costs are borne by the private sector. Regulation acts as a hidden tax that allows government power to grow beyond what legislators explicitly authorize.

Measuring those costs is difficult, but important. To that end, my CEI colleague Wayne Crews compiles the *Ten Thousand Commandments* report, an annual survey of the federal regulatory state. In the 2011 edition, released today, he notes how this regulation works to grow the state.

> Taxation and regulation can substitute for each other. A new government program-for example, job training-would require either increasing government spending on the one hand or imposing new rules and regulations requiring such training on the other. If regulatory costs remain largely hidden from public view, regulating will become increasingly attractive compared with increasingly unpopular taxing and spending.

With 2008 regulatory costs estimated at $1,752 trillion, it should be difficult for anyone to argue that Washington isn't in need of a haircut.

However, the regulatory behemoth keeps on growing. Other writers, commenting on Ten Thousand Commandments today, add more detail to the litany of costs -- of both existing and proposed regulations. At Cato@Liberty, Walter Olson provides some examples.

Reflecting the historical development of the Food and Drug Administration, the introduction of new medical devices such as pacemakers and joint replacements is still somewhat less intensively regulated than the introduction of new pharmaceutical compounds. As Emory's Paul Rubin relates at Truth on the Market, pressure is building in Washington to correct this supposed anomaly by intensifying the regulation of devices. As Rubin notes, "virtually all economists who have studied the FDA drug approval process have concluded that it causes serious harm by delaying drugs," yet the premise of the new campaign for regulation "is that we should duplicate that harm with medical devices."

Much of the new regulation of consumer finance has taken the form of rules governing what information lenders can ask for or consider about borrowers' situation in extending credit. One such proposed rule, from the Federal Reserve, "would require credit card issuers to consider only a person's independent income, and not the household's income, when underwriting credit cards in an effort to protect young adults unable to repay debt." Great big unforeseen consequence: many stay-at-home parents will now be unable to establish credit in their own names (via).

Among a slew of other high-profile regulations, the Environmental Protection Agency (EPA) has chosen this moment to demand very rapid new reductions in emissions from industrial boilers ("Boiler MACT" rules). Per ShopFloor, Thomas A. Fanning, who runs one of the nation's largest electric utilities, the Southern Company, thinks trouble lies ahead:

EPA has proposed Utility MACT rules under timelines that we believe will put the reliability and affordability of our nation's power system at risk. EPA's proposal will impact plants that are responsible for nearly 50 percent of total electricity generation in the United States. It imposes a three-year timeline for compliance, at a time when the industry is laboring to comply with a myriad of other EPA mandates. The result will be to reduce reserve margins-generating capacity that is available during times of high demand or plant outages-and to cause costs to soar. Lower reserve margins place customers at a risk for experiencing significant interruptions in electric service, and costs increases will ultimately be reflected in service rates, which will rise rapidly as utilities press ahead with retrofitting and projects to replace lost generating capacity due to plant retirements.

> At least we'll be able to avert brownouts by switching over readily to fracked-natural-gas, Alberta tar-sands, and latest-generation-nuclear options - or we would had all those options not been put under regulatory clouds as well.

Meanwhile, at RealClearMarkets.com, the Washington Policy Center's Carl Gipson explains how overzealous regulation sifles entrepreneurship, which is a major driving force for future growth.

> Much has been made the last couple of years of tax burdens throughout the nation and the amount small businesses have to pay. This is an important topic, but an equally important issue that has been largely ignored until lately is the regulatory burden government places on these same businesses.
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> The cost of federal, state and local regulations is not insignificant. The U.S. Small Business Administration recently reported that compliance costs for federal regulations exceeds $1.75 trillion per year. That is the size of the entire federal budget at the end of the 20th century.
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> And small businesses bear the brunt of that cost. Small businesses, those with fewer than 500 employees (the federal government's definition), usually pay about 35% higher compliance costs than larger businesses. Large businesses can spread the cost of regulations among a broader base of employees or products. The marginal cost is less and large firms can also benefit from a greater economy of scale. Smaller firms do not have the same resources at their disposal to help mitigate similar costs. This puts small businesses, especially those under 50 employees, at a competitive disadvantage.

So what is to be done? Cato Institute Senior Fellow Doug Bandow suggests,

> What is needed is what Crews calls a "liberate to stimulate" agenda. An excessive regulatory burden should be seen as a

> barrier to economic growth. If the president and Congress really want to promote economic growth, they should begin dismantling the federal regulatory behemoth.

For more on 10,000 Commandments and the burden of the federal regulatory state, see my post in the *Washington Examiner*, and my colleague Iain Murray's posts in the *Examiner*, National Review Online, and Globalwarming.org.
