

Toward a Federal “Regulatory Budget”

When Congress spends money, a certain degree of disclosure helps voters hold their representatives accountable. Federal programs are funded by either raising taxes or borrowing, against a promise to repay with interest from future tax collections. Taxpayers can observe those decisions to some degree during the authorization and appropriations processes, and they can inspect the costs of programs and agencies in Congressional Budget Office publications⁷² and the federal budget’s historical tables.⁷³

However, Congress often “funds” objectives and programs through regulatory mandates. Rather than taxing and paying directly, federal regulation compels the private sector, as well as state and local governments, to bear the costs of federal initiatives. Regulation in such instances functions

like an off-budget form of taxation and spending.

There is an unappreciated synergy between fiscal budgeting and regulatory “budgeting.” Because the costs and economic effects of regulatory compliance are not budgeted and disclosed the same way as federal spending, regulatory initiatives can commandeer private sector resources with comparatively little public fuss. Policy makers may find it easier to impose regulatory costs than to embark on government spending because of the former’s lack of disclosure and accountability for costs. And when regulatory compliance costs prove burdensome, Congress can escape accountability by blaming an agency for issuing an unpopular rule.

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Table I. The Regulatory State: A 2018 Overview

	Year-End 2017	1-Year Change	5-Year Change (2013–2017)	10-Year Change (2008–2017)
Total regulatory costs	\$1.9 trillion	n/a	n/a	n/a
Agency enforcement budgets	\$66.0 billion	1.7%	7.9%	22.2%
<i>Federal Register</i> pages	61,308	–36.1%	–22.7%	–22.8%
Devoted to final rules	18,727	–51.5%	–29.1%	–28.8%
<i>Federal Register</i> final rules	3,281	–14.8%	–10.3%	–14.3%
Code of Federal Regulations pages	186,374	0.7%	6.2%	18.0%
Total rules in Agenda pipeline	3,209	–3.3%	–2.9%	–19.9%
Completed	470	–29.3%	1.7%	–32.0%
Active	1,977	–5.6%	–17.5%	–19.8%
Long term	762	36.6%	70.9%	–10.2%
“Economically significant” rules in the year-end pipeline	140	–27.5%	–26.7%	–22.2%
Completed	21	–55.3%	–25.0%	–36.4%
Active	71	–37.2%	–45.8%	–35.5%
Long term	48	45.5%	50.0%	29.7%
Rules affecting small business	590	–12.1%	–11.8%	–21.6%
Regulatory flexibility analysis required	337	–18.2%	–13.8%	–15.1%
Regulatory flexibility analysis not required	253	–2.3%	–9.0%	–28.9%
Rules affecting state governments	289	–18.6%	–21.5%	–43.7%
Rules affecting local governments	173	–18.0%	–21.7%	–44.9%
GAO Congressional Review Act reports on major rules	48	–59.7%	–40.7%	–49.5%
FCC Breakdown				
Final rules (<i>Federal Register</i>)	117	30.0%	–13.3%	–27.8%
FCC rules in Agenda	106	–13.1%	–19.7%	–25.9%
FCC rules affecting small business	77	–16.3%	–22.2%	–27.4%

n/a = not applicable.