

Introduction: Toward a Regulatory Budget

When Congress spends money, a modicum of disclosure helps voters hold their representatives accountable. Washington funds many programs either by raising taxes or by borrowing, promising to repay with interest from future tax collections. Taxpayers can observe those decisions to at least some degree during the authorization and appropriations processes, and they can inspect the costs of programs and agencies in Congressional Budget Office (CBO) publications²⁰ and the federal budget's historical tables.²¹

Congress also “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 is essentially an off-budget form of taxation and spending.

Because the costs and economic effects of regulatory compliance are not budgeted and disclosed the way that federal spending is, regulatory initiatives can commandeer private sector resources with comparatively little public fuss. Policy makers 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 ac-

countability by blaming an agency for issuing an unpopular rule.

This edition of *Ten Thousand Commandments* helps illustrate the need for a regulatory budget to counter these dynamics. It contains four sections:

1. An overview of the costs and scope of the regulatory state, including its estimated size compared with federal budgetary components and gross domestic product (GDP);
2. An analysis of trends in the numbers of regulations issued by agencies, based on information provided in the *Federal Register* and in “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions”;
3. Recommendations for reform that emphasize improving congressional accountability for rulemaking; and
4. An appendix containing historical tables of regulatory trends over past decades.

Although challenging, it is possible to get a sense of the very substantial costs of the regulatory state. For the good of the nation's economic health and the welfare of people as both citizens and consumers, the regulatory process should be made more transparent, brought under democratic control, and required to provide clear net benefits.

When regulatory compliance costs prove burdensome, Congress can escape accountability by blaming an agency for issuing an unpopular rule.

Table I. The Regulatory State: A 2016 Overview

	Year-End 2016	1-Year Change	5-Year Change (2012–2016)	10-Year Change (2007–2016)
Total regulatory costs	\$1.9 trillion	n/a	n/a	n/a
Agency enforcement budgets	\$63.0 billion	0.7%	2.1%	24.6%
<i>Federal Register</i> pages	95,894	19.5%	21.4%	33.0%
Devoted to final rules	38,652	56.5%	56.5%	69.7%
<i>Federal Register</i> final rules	3,853	13.0%	3.9%	7.2%
Code of Federal Regulations pages	178,277	–0.6%	5.3%	15.7%
Total rules in Agenda pipeline	3,318	0.6%	–18.3%	–14.5%
Completed	665	20.0%	–43.3%	–2.8%
Active	2,095	–6.6%	–12.2%	–13.6%
Long term	558	11.8%	10.9%	–27.9%
“Economically significant” rules in the year-end pipeline	193	–11.5%	–13.8%	20.6%
Completed	47	30.6%	–17.5%	80.8%
Active	113	–24.2%	–16.9%	9.7%
Long term	33	0.0%	6.5%	6.5%
Rules affecting small business	671	–0.4%	–21.4%	–11.4%
Regulatory flexibility analysis required	412	6.7%	–12.3%	9.9%
Regulatory flexibility analysis not required	259	–10.1%	–32.6%	–32.2%
Rules affecting state governments	355	–13.2%	–20.0%	–34.1%
Rules affecting local governments	211	–17.3%	–21.3%	–36.8%
GAO Congressional Review Act reports on major rules	115	51.3%	–69.1%	88.5%
FCC Breakdown				
Final rules (<i>Federal Register</i>)	90	0.0%	–17.4%	–17.4%
FCC rules in Agenda	122	–8.3%	3.4%	–15.9%
FCC rules affecting small business	92	–7.1%	3.4%	–15.6%
EPA Breakdown				
Final rules (<i>Federal Register</i>)	558	–3.6%	–12.1%	18.0%
EPA rules in Agenda	203	8.0%	–9.0%	–39.6%
EPA rules affecting small business	14	16.7%	–71.4%	–83.5%

n/a = not applicable.