

Beyond a Federal “Regulatory Budget”

Federal programs get funded either by taxes or by borrowing against a promise to repay with interest from future tax collections. When Congress spends, no one questions that disclosure is necessary for voters to hold representatives accountable. Taxpayers can observe those decisions during the authorization and appropriations processes (not that it is a simple thing to do). They can inspect the costs of programs and agencies in Congressional Budget Office publications and in the federal budget’s historical tables.³²⁹ The point is, disclosure for spending exists, however difficult it may be to access specific information.

Regulation and spending are both mechanisms by which governments act or compel. Rather than taxing and paying directly, Congress often “funds” objectives with federal regulation to compel the private sector, as well as state and local governments, to bear the costs of federal initiatives. Regulation in such instances functions as an off-budget form of taxation and spending. The costs and economic effects of regulatory

compliance are not budgeted and disclosed the way that federal spending is, so regulatory initiatives can commandeer private-sector resources with relatively little public controversy.

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

Although disclosure of spending obviously does not stop deficits and debt, it is still vital for making progress toward those ends. Likewise, policy makers should disclose regulatory costs to the fullest extent possible so that the decision of whether to regulate can at least have an opportunity to get the full consideration it deserves.

Table 1 provides an overview of the 2021 federal regulatory enterprise to be discussed in the following pages.

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Table I. The Regulatory State: An Overview for 2022

	Year-End 2021	1-Year Change (2020–2021)	5-Year Change (2017–2021)	10-Year Change (2012–2021)
Total regulatory costs	\$1.927 trillion	n/a	n/a	n/a
Agency enforcement budgets*	\$77.9 billion	5.5%	13.1%	20.7%
<i>Federal Register</i> pages	74,532	13.7%	21.6%	–5.6%
Devoted to final rules*	32,223	55.0%	–16.6%	22.6%
<i>Federal Register</i> final rules	3,257	–2.9%	–0.7%	–12.2%
Significant final rules	387	–16.0%	74.0%	10.0%
<i>Federal Register</i> proposed rules	2,094	–2.6%	14.0%	–16.8%
Significant proposed rules	272	–21.0%	55.0%	6.0%
Code of Federal Regulations pages^	185,984	0.3%	4.3%	12.4%
Total rules in Agenda pipeline	3,777	–1.9%	17.1%	–7.0%
Completed	475	–24.6%	1.1%	–59.5%
Active	2,678	1.6%	35.5%	12.2%
Long term	624	6.5%	–18.1%	24.1%
“Economically significant” rules in the year-end pipeline	295	13.0%	110.7%	31.7%
Completed	40	–31.0%	90.5%	–29.8%
Active	205	18.5%	188.7%	50.7%
Long term	50	66.7%	4.2%	61.3%
Rules affecting small business	693	9.1%	17.5%	–18.9%
Regulatory flexibility analysis required	354	1.1%	5.0%	–24.7%
Regulatory flexibility analysis not required	339	18.9%	34.0%	–11.7%
Rules affecting state governments	514	25.7%	77.9%	15.8%
Rules affecting local governments	325	26.0%	87.9%	21.3%
GAO Congressional Review Act reports on major rules	98	–30.0%	38.0%	28.9%
Executive Orders	93	36.8%	47.6%	138.5%
Executive Memoranda	31	–47.5%	–18.4%	–3.1%
“Notices” in the <i>Federal Register</i>	21,985	–2.2%	–0.7%	–9.8%

n/a = not applicable. Some years fiscal, some years calendar—see text for more information.

* year-end 2020; ^ year-end 2019