

# Getting Beyond a Federal Regulatory Budget and the Limitations of Administrative Reform

Federal programs are funded either by taxes or by borrowing, 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. They can inspect the costs of programs and agencies in Congressional Budget Office publications and in the federal budget's historical tables.<sup>135</sup> Disclosure for spending exists, however difficult it may be to access specific information.

Regulation and spending are 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 fed-

eral spending is, so regulatory initiatives can commandeer private-sector resources with relatively little public controversy.

Policymakers may find it easier to impose regulatory costs that have less disclosure and accountability than traditional spending programs. 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, policymakers 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 2022 federal regulatory enterprise to be discussed in the following pages.

Table I. The Regulatory State: An Overview for 2023

	Year-End 2022	1-Year Change (2021–2022)	5-Year Change (2018–2022)	10-Year Change (2013–2022)
Total regulatory costs	\$1.927 trillion	n/a	n/a	n/a
Federal outlays	\$6.272 trillion			
Federal deficit	\$1.375 trillion			
Individual income taxes (estimated)	\$2.3 trillion			
Corporate income taxes (estimated)	\$382 billion			
Corporate pretax profits	\$3.1 trillion			
Gross domestic product	\$25.46 trillion			
Agency enforcement budgets*	\$81.7 billion	0.3%	10.8%	19.8%
<i>Federal Register</i> pages	80,756	10.1%	20.1%	1.8%
Devoted to final rules*	23,634	–28.7%	26.2%	–4.3%
<i>Federal Register</i> final rules	3,168	–28.5%	–5.9%	–13.4%
Significant final rules	265	–31.0%	32.0%	–20.0%
<i>Federal Register</i> proposed rules	2,044	14.8%	–2.6%	–21.2%
Significant proposed rules	262	–4.0%	9.0%	–16.0%
<i>Federal Register</i> , small business final rules	916	0.1%	21.5%	27.4%
Subset of significant final rules	72	–30.0%	41.0%	–30.0%
Proposed rules	646	–19.7%	13.9%	0.2%
Subset of significant proposed rules	67	–24.0%	–4.0%	–42.0%
“Notices” in <i>Federal Register</i>	22,505	2.4%	2.2%	–7.2%
Code of Federal Regulations pages	188,346	0.9%	1.0%	7.9%
Total rules in Agenda pipeline	3,690	–2.3%	4.4%	11.6%
Completed	443	–6.7%	–7.7%	–4.1%
Active	2,651	–1.0%	10.5%	10.6%
Long term	596	–4.5%	–9.0%	36.6%
“Economically significant” rules in the year-end pipeline	332	12.5%	90.8%	73.8%
Completed	53	32.5%	112.0%	89.3%
Active	244	19.0%	106.8%	86.3%
Long term	35	–30.0%	12.9%	9.4%
“Economically significant” rules completed in spring and fall 2022	89	–15.2%	154.3%	74.5%
Rules affecting small business	707	2.0%	16.9%	5.7%
Regulatory flexibility analysis required	349	–1.4%	5.8%	–10.7%
Regulatory flexibility analysis not required	358	5.6%	30.2%	28.8%
Rules affecting state governments	550	7.0%	68.2%	49.5%
Rules affecting local governments	387	19.1%	94.5%	75.1%
GAO Congressional Review Act reports on major rules	76	–41.1%	40.7%	16.9%
Executive Orders	29	–68.8%	–17.1%	20.9%
Executive Memoranda	46	53.3%	58.6%	43.8%

n/a = not applicable; GAO = Government Accountability Office. Some years fiscal, some years calendar—see text for more information.

\* year-end 2021