Policy Sciences **31**: 371–384, 1998.
© 1998 *Kluwer Academic Publishers. Printed in the Netherlands.*

Regulatory budgeting: A bad idea whose time has come?

R.T. MEYERS
University of Maryland, Baltimore County, Department of Political Science, 1000 Hilltop Circle, Baltimore, MD 21250, U.S.A.

Abstract. Advocates of regulatory relief propose a budget that would annually cap regulatory costs. But emulating fiscal budgeting would be much more difficult than they envision. An arbitrary macrobudgetary constraint would have to be selected, and the potential scope of the regulatory budget would be vast. The process of regulatory budgeting would be very-time consuming, and could increase micromanagement by the Congress. Estimating regulatory costs would be challenging, and ignoring regulatory benefits would be unfair and inefficient. A preferable alternative to regulatory budgeting would be to expand the Government Performance and Results Act to include cost-effectiveness reviews for regulations.

To begin with a demurrer, regulatory policy *is* flawed. Government regulations impose large costs, and often these costs far exceed the benefits they generate. Regulators often use command-and-control when other tools would probably work better. Inspectors often would rather find 'gotcha' violations of detailed regulations than determine if these regulations are likely to improve social outcomes. Courts take a hard look at the substance of agency actions despite the judges' lack of policy expertise. These are only the major counts in the indictment of regulation, one which became accepted wisdom in the mid-1970s.

This case against regulation will always have some merit. Government regulations, by definition, coerce by stating what must or must not be done. Those whose job it is to coerce, for numerous reasons, sometimes coerce too much.

So the advocates of a regulatory budget process are correct when they claim it would reduce the amounts of overregulation (Thompson, 1997; Hughes, 1996; Crews, 1996; Morrall, 1992). However, regulatory budgeting would also be a poor way of making policy. This article explains some of its limitations, and concludes with a short description of a preferable alternative process. But first the paper examines why regulatory budgeting is being proposed; the time frame for this review ends in mid-1997.

Why propose regulatory budgeting?

Regulatory budgeting is now being revived after its first run during the late 1970s. That was also when fiscal budgeting began its long-running domination of national politics. The previews for fiscal budgeting began in 1976, when the

Congress started using its new budget process. The Broadway version opened with the 1980 budget, which Congress summarily rejected because of President Carter's planned deficits, and rave reviews followed the failure of the 'supply-side' experiment of the early 1980s. Fiscal budgeting has been drawing large crowds since then.

Efforts to limit regulatory burdens began in the Ford Administration, following a period of regulatory expansion. The Carter administration then institutionalized regulatory analysis and control within the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA). It issued a regulatory calendar and conducted analyses of proposed regulations.

One of OIRA's administrators proposed to expand these features into a regulatory budget process (DeMuth, 1980; see also Litan and Nordhaus, 1983). But the Reagan administration preferred a process designed to grant regulatory relief by executive actions (Eads and Fix, 1984; Cooper and West, 1988; Friedman, 1995). Executive Order 12291, issued in 1981, mandated benefit-cost analyses for all major regulations and required OIRA approval before regulations could become final. Implementation of this order led to major political controversies. One dispute was over E.O. 12291's requirement that regulatory costs be weighed, even though some statutes required agencies to ignore these costs. Another dispute was over OIRA's ex parte contacts with representatives of regulated industries, which apparently violated provisions of the Administrative Procedure Act. (Such contacts are common in the fiscal budgetary process – OMB's Program Associate Directors, who are political appointees, regularly interact with groups affected by budgetary policies.) The Bush administration generally continued with this approach, though it moved much political decision-making on regulations to its Cabinet Council on Competitiveness.

This campaign for regulatory relief did not satisfy all conservatives. They complained that Republican presidents repeatedly compromised with regulation-favoring Congressional Democrats, especially after the Democrats regained control of the Senate in the 1986 election. To quell this criticism, President Bush declared a regulatory rule-making moratorium during his last year in office. But Bush lost, and conservatives feared that regulation would run rampant with the Democrats' unified control of government. President Clinton soon proposed his plan for expanding access to heath care, one that relied on regulatory cross-subsidization, rather than on fiscal outlays.

The potentially-regulated health providers and financiers mobilized well; 'Harry and Louise' and talk-show hosts convinced many voters that Clinton's proposals would bar families from choosing their own doctors. In 1994, Congressional Republicans benefited from this anti-regulatory fervor, and their 'Contract with America' pledged an extension of the Reagan-Bush regulatory relief approach. Title IV of H.R. 9, the 'Job Creation and Wage Enhancement Act,' would have established a regulatory budget and required specified cuts in regulatory costs. Other provisions would have required detailed regulatory reviews for all rules, and added new procedures designed to promote regulatory relief–negative opinions by peer review panels would force agencies to restart

rulemaking, property owners who suffered regulatory takings of over 10% of their property would be compensated, and courts would have even more latitude to overturn regulations. Some of the relief proposals passed the House, but foundered in the Senate (Benenson, 1995). The Congress did pass two regulatory relief laws, however. The Unfunded Mandates Reform Act of 1995 requires the Congressional Budget Office (CBO) to estimate the costs of regulations on state and local governments, and creates a point of order against any bill that does not provide financing for meeting these costs. The Small Business Regulatory Enforcement Fairness Act of 1996 requires the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) to establish special panels of small business representatives and design regulations to take special account of the cost difficulties small businesses face. A new procedure may allow the Congress to disapprove regulations because of their impacts on small businesses.

The Republicans' anti-regulation efforts were largely an electoral disaster. Perhaps their most damaging tactic was to put 17 limitations on the EPA appropriations bill, including provisions that would have stopped EPA from enforcing regulations that limited air, water, and ground pollution. This certainly pleased the Republicans' corporate supporters, some of whom helped draft the limits. But it upset many voters who strongly supported these regulations. President Clinton charged the Republicans with bullying the EPA and polls showed the public agreed (Maraniss and Weisskopf, 1996).

Thus, conservatives are frustrated with current regulatory policies and with their efforts to change these policies. But frustration can often lead people to try the impossible, as has been the case in the fiscal budgetary process that regulatory reformers want to emulate. A great example was the Gramm-Rudman-Hollings legislation of 1985, which threatened automatic and massive budget cuts if President Reagan and Congressional Democrats failed to agree on significant cuts to entitlements and defense spending. Former Senator Warren Rudman supported this triggered 'sequestration' by saying it was 'a bad idea whose time has come.' Being a sensible man, he reversed himself after seeing sequestration in inaction. The unjustified premise of sequestration was that politicians could force themselves with a procedure to do something their constituents didn't want them to do. But just as the public wants to maintain benefit levels for middle-class entitlements, it wants to maintain the basic protections offered by the regulatory state. The greatest flaw of regulatory budgeting is that it assumes away this public demand.

What would a regulatory budget process require?

Since regulatory budgeting is to be modeled on fiscal budgeting, it is instructive to compare the current regulatory process to the current fiscal budgetary process. This comparison reveals that regulatory budgeting would be very difficult to carry out.

Begin by identifying the essential features of fiscal budgeting (Meyers, 1994, c. 3). First, budgeting imposes a *macroconstraint*, typically a requirement that revenues and spending be balanced, or that taxes and/or borrowing be capped. Second, budgeting follows a *routine schedule*, typically producing a new budget every year. Each budget goes through four stages – preparation, authorization, execution, and audit – with numerous interactions between institutions within each stage. Third, the budget is based on relatively *definitive information*, with the focus almost always on the costs of agency operations. Technical experts in budget units usually have authority to estimate and record these costs. The following sections ask whether regulatory budgeting should match these features.

What should be the regulatory macroconstraint?

Federal fiscal budgeting is generally oriented towards meeting one macroconstraint – no more than a specified deficit at the end of the budget year. (The deficit is roughly the excess of cash out, or 'outlays,' over cash in, or 'receipts.') Each year's deficit target is set by statute or by informal political agreement, which usually requires long and difficult bargaining by political elites.

In contrast, the public generally knows that it wants a 'balanced' budget (Savage, 1988). This attraction to no net cash flow is potentially foolish, since it prevents deficits incurred for making investments, or surpluses saved to make later cash payments. Yet elites feel obligated to honor the balanced budget ideal with a mixture of symbolic and real actions. They are obviously responding to electoral pressures, but many have been convinced by economists that deficits reduce long-run economic growth. Sophisticated models can project by how much deficit reductions would increase growth, and these projections are now incorporated into deficit reduction plans. Each plan includes a 'fiscal dividend' – the specific and additional deficit reductions expected to result from the interest-rate-lowering effects of other deficit reductions.

This is an interesting case of advisees believing more fervently than advisors in the latters' wisdom. Because these models are very sensitive to small changes in their many parameters, they can be wildly inaccurate after only few years. This reality is ignored in fiscal budgeting. So is the common caution that GDP does not indicate everything we might want to know about the economy. But if regulatory policy-makers want to attain this level of self-delusion, they can estimate the growth-depressing effects of regulatory burdens, use them to derive targets for reductions, and make specific claims about how much faster the economy will grow.

One of the more problematic features of fiscal dividend calculations is that they assume all deficit reductions will have similar effects on the economy. A plan to eliminate \$100 billion of spending on research and development and infrastructure maintenance has the same projected effect as cutting \$100 billion in transfers (notwithstanding much theory to the contrary). Regulatory budgeting could make a similarly erroneous claim – for example, identical growth-

enhancing effects from the elimination of an entry barrier and from reduced controls on pollution. In the latter case, decision-makers could increase inefficient negative externalities for the goal of promoting growth. This should drive respect for the micro foundations of macroeconomics to a new low…

Some deficits and some regulations *can* impede economic growth; the problem is that budgetary macroconstraints are a very blunt instrument for ruling out these policies. Moreover, choosing a macroconstraint for regulation will be harder than it is for fiscal budgeting. Fiscal 'balance' is an arbitrary but procedurally convenient location for indexing debates. For a regulatory budget, the tipping point at which the national nanny becomes the toothless tiger is similarly arbitrary, but there is no similar 'obvious' location for compromise.

What should be the scope of the regulatory budget?

The proper scope of the federal fiscal budget is well-accepted. The budget is 'unified,' comprehensive of all of the federal government's financial transactions. (A few minor exceptions exist now; more serious ones were made before 1985.) Advocates of comprehensiveness give three reasons. First, if the budget is to serve as the basis for calculating government demand on national savings, then it must include all of the government sector (additional adjustments are then made to reach the National Income and Product Accounts basis). Second, comprehensiveness enables reallocations of funds among different activities. Third, it makes the users of these resources more accountable to elected officials and citizens. That goal is so important that it recently led the Congressional Budget Office to extend the budget's reach into two areas of regulatory policy. In 1994, it decided that President Clinton's proposed health alliances were governmental entities (partially because they would have regulated providers); therefore, CBO suggested all of their transactions should be on-budget. The other example is the universal service fund created by the Telecommunications Act of 1996. It will be administered by a third party appointed by the Federal Communications Commission, and will hold and transfer funds among telecommunications providers to cross-subsidize high-cost areas. Because these payments are forced by federal law, CBO intends to place them on-budget. In both these cases, many budget experts suspected the regulatory designs were chosen in hopes of avoiding budgetary limits.

Most advocates of a regulatory budget have not described how comprehensive they think it should be. Ironically, many have implicitly limited its scope, even after they complain about the government's extraordinary regulatory reach. Estimates of regulatory costs typically count only those imposed by prominent social regulatory agencies like EPA and OSHA. Broader compilations have also included tax compliance costs. From the perspective of the fiscal budget, this is intriguing. Certainly some efforts to comply with the tax code involves provisions that *reduce* tax liabilities. Opponents of tax preferences might be wise to embrace a regulatory budget process!

Returning to the main point, if a regulatory budget is to be comprehensive like the fiscal budget, then it should include many regulatory burdens that have not been counted in prior studies. Standard english definitions of the word 'regulation' are very broad (e.g., 'a rule prescribed by an authority'). Since the government prescribes so many rules, the potential scope of the regulatory budget is vast. Consider, for example, whether the regulatory budget should include the burdens of complying with the criminal code. Probably not for heinous crimes. But what about the costs of complying with the law that prevents the legal sale of marijuana? Does this law differ significantly from the regulation that prevents the legal sale of tobacco to minors? Or from the cross-cutting sanction on states which threatens them with the loss of highway funding if they do not prohibit legal access to alcohol by those under 21 years of age?

Such complexity could be defined away by restricting the scope of the regulatory budget to a limited set of programs. This would create precedents for exempting additional programs. It would also convert the advertised regulatory 'budget' into something less than its label.

The other scope challenge involves interactions with the fiscal budget. As shown with the tax example above, actions taken in the regulatory budget can effect fiscal budget outcomes, or vice versa. Consider the regulatory charges that are collected by government (for example, fees for inspection of product quality, as are imposed for agricultural products, drugs, and medical devices). A limit on regulatory burdens could force agencies to reduce these charges, thereby worsening the government's fiscal position. Currently, policy-makers often pretend that such interactions do not exist. The prototypical case is in health policy, where the federal government has recorded budget savings after cutting Medicare and Medicaid reimbursements that encourage providers to shift costs to private insurers. Here the case for a regulatory budget is stronger, but it would still be difficult to coordinate the two budget processes in these cases.

What should be the schedule for the regulatory budget process, and which branch should decide what?

Fiscal budgeting is expected to follow a relatively compressed and regular schedule. Budget preparation usually takes about a year, legislative authorization takes the next nine months to a year, and most of the budget is spent in the next year. But regulatory policy-making moves forward more fitfully. Years usually pass from when a regulatory bill is introduced to when it is enacted. More years pass while the regulatory agency drafts rules, and additional years are required to ensure compliance. And nothing guarantees passage, rule promulgation, or extensive compliance.

Of course, the federal government fails to meet many of its fiscal deadlines. Adding an annual regulatory budget process certainly assumes political institutions have a much greater potential for timely action than they have shown

recently. Or perhaps it does the opposite. Overloading the government with two budget processes could be a creative way of forcing it to spend less and regulate less.

Fiscal delays are partly due to Congressional control over the minutest details of agency activities. Year after year, appropriations specify a multitude of discretionary projects (and Members of Congress take a lot of time to agree on these details). For example, the Department of Health and Human Services (HHS) is told how to allocate funding between its different institutes for health research. High legal specificity extends to entitlement laws, which grant beneficiaries rights to receive funds (e.g., for HHS, Social Security, Medicare, and Medicaid).

It is unconceivable that the Congress would instead tell HHS to improve the health status of Americans and then give it a large sum of money to spend at its discretion for that purpose. But this is not unlike some *past* Congressional delegations of regulatory authority, in which agency goals were specified only vaguely ('ensure an adequate margin of safety') and acceptable costs were left unspecified. The generous defense of such delegations is that the Congress respected agency expertise. The more cynical one is that the Congress was too cowardly to make difficult tradeoffs. In recent years it has masked this cowardice by insisting that regulatory agencies meet numerous specified but contradictory goals, and then reining in agencies if they try to meet just one.

A regulatory budget process, in and of itself, would not eliminate such confusing delegations. It is highly unrealistic to expect the Congress to allow agencies the choice of which regulatory goals to meet. The opposite approach, in which the Congress would specify both regulatory goals and costs, is more likely. But as in the fiscal budget process, legislative specificity is likely to guarantee inefficient regulations. And it is ironic that those who legitimately complained about command and control regulation now argue that the best way to oversee agencies is to tell them with a regulatory budget, year after year, exactly how they should do things.

What methods should be used for regulatory cost accounting?

If agencies are to adjust regulations to meet compliance cost caps, they will need a standard basis of accounting for these costs. When costs are recognized is a central issue for fiscal budgeting. At the federal level, the current practice is to record when agencies commit funds (obligations) and when they liquidate these obligations (outlays).

The macrobudgetary constraint emphasizes outlays, as they are used to calculate the deficit. For continuing obligations like salaries, this presents no major problem. For capital purchases and long-lived liabilities, however, the cash basis of accounting is usually misleading. Consider a provision that entitles beneficiaries to a new medical service. The cash costs of this service will be borne each year, but the commitment to bear these costs is being made at one point in

time and will continue until it is formally reversed. First-year cash outlays underestimate the total cost of creating this new entitlement; a better measure takes the stream of likely future costs, discounts them to their present value, and charges that to the budget year. Such accruals are only used in a small portion of the fiscal budget, however. One reason is that budget controllers are scared that the complexity of making accruals might encourage strong challenges to their authority.

Accounting for regulatory costs presents a related problem. After the President and the Congress adopt a regulatory rule, and after an agency promulgates a rule, compliance comes gradually. Regulatory impact analyses now adjust the stream of projected compliance costs into present values. These calculations are often very controversial because of large differences between competing estimates of the amount of costs and when they will occur; which discount rate to use is another challenging issue. These disputes would only be intensified under a regulatory budget process.

In fiscal budgeting, only uses of federal funds are counted; contributions by others – for example, state funds that match federal grants – are not. Note that federal funds usually substitute in part for these other funds. A different type of substitution is often found in regulation – not all costs spent in compliance with regulations would be saved in the absence of these regulations. For example, sewer operators would likely treat discharged water if the Clean Water Act did not exist, though often to a lesser amount. Marginalist principles define the cost of complying with regulations as only those above what the regulated would spend voluntarily. But determining voluntary levels of spending, especially after a regulation had been in place for years, would be difficult or impossible.

An easier alternative would be to count total costs, and only for proposed changes in regulations. New regulatory burdens would have to fit under a cost ceiling, but existing regulatory burdens would be protected, since they wouldn't be counted. Tradeoffs between old and new regulations would be discouraged by this highly-selective approach to 'budgeting,' if the process still deserves this label. In comparison, at least the 'pay as you go' constraint in the fiscal budget process requires offsetting financing for new entitlements or tax expenditures; this places existing entitlements and tax expenditures at some risk of being reduced.

A total costs basis would be more attractive to potential regulatory targets, for overestimating costs before the fact would make it less likely they would have to bear any (ex ante estimates are the ones that matter, since budgeting is prospective). Compliance studies have shown real costs are often lower than projected costs, in part because of learning about new technologies. On the other hand, CBO's mandate estimating process, which may suggest how a regulatory budget would be implemented, generally counts only direct costs (Gullo and Schwartz, 1997). This is a step backward from regulatory impact analyses, which may attempt to estimate opportunity costs. Note also that CBO's calculations usually do not net reduced costs borne by others because of regulations (for example, the burdens of upstream sewer dischargers save money for downstream suppliers of drinking water).

Though estimates of regulatory costs have improved over the past decades, they still rely on many simple assumptions and major extrapolations (Hopkins, 1996; James, 1996). This so-called 'funny money' problem isn't as serious in the fiscal budget. Most budget costs are directly borne by the government – money is released from the Treasury – allowing contemporaneous and continuous measurement of these flows. (The major exception is tax preferences.) The government employs tens of thousands of skilled people to estimate and control these costs. Yet the fiscal budget process still features numerous disputes about the costs of spending (Meyers, 1994). When numbers have procedural impacts, conceptual and measurement difficulties first invite gimmicks and then attempts to control them. Many gimmicks should be expected for quite some time if regulatory budgeting is attempted.

Should regulatory benefits be counted?

If regulatory budgeting is to follow the style of fiscal budgeting, which does not formally count benefits from spending, then regulatory budgeting naturally would focus on costs. But this practice would bias the regulatory process in favor of those who might be subjected to regulations, and against those who would be protected by them. Such a bias, though in the opposite direction, is exactly what the regulated have complained about in the past. Faced with laws that prohibit consideration of costs, they helped develop the current regulatory review process, which attempts to measure and compare benefits and costs. It is hypocritical to now argue that the central regulatory decision process should only consider costs.

Some critics of the current regulatory process believe that the utilitarian calculations of benefit-cost analysis devalue their rights. Arguing from this perspective is entirely legitimate, given American reverence for the Lockean values of life, liberty, and property. But the proposed regulatory budget would honor only *titled* property rights. Consider how it would treat those potentially affected by a proposed regulation limiting release of ozone and particulates into the air. Manufacturers who would forego profits because of their reduced ability to pollute would find their costs recorded in the regulatory budget. Assume that the regulation would be rejected because these costs exceeded the regulatory budget ceiling. The losers would be the asthmatics who would be deprived by air pollution of their liberty to walk outside or of their lives. The regulatory budget would not count, and thus would not consider, their costs.

The saddest moment in American legal history – the *Dred Scott* decision – subordinated the lives and liberties of enslaved African-Americans to the property rights of their white owners. Thankfully, American law has become much more enlightened, and legal protections have been widely extended. Arguably, asthmatics suffer torts committed by polluters and justice entitles them to compensation from polluters. (And their claims are stronger than those made by many beneficiaries of 'mandatory' spending.) Should they be

forced to assert their rights through the courts? For example, air polluters could be exposed to joint and several liability, enabling, say, a class-action suit by asthmatics against gasoline purchasers. A dream for tort lawyers, but a nightmare for society – administrative regulation is usually more efficient and equitable than such adversarial legalism.

The current regulatory review process at least makes a good faith effort to estimate costs *and* benefits. To do otherwise embraces ignorance and promotes inefficiency. Agencies pressured to impose ineffective regulations could more easily do so because they would not be required to document benefits. The analogous behavior is perhaps the most serious flaw of the current fiscal budget process, where spending for illusory, unmeasured gains is easy to find.

Advocates of regulatory budgeting argue in response that regulatory agencies will still be expected to measure benefits, and will be able to maximize benefits *within the regulatory budget cost constraint*. The last phrase is a cause for concern, because budgetary macroconstraints can be set too low to permit maximization of net benefits. Again, the analogy to fiscal budgeting is easy to make – across-the-board cuts and annual spending limits require some agencies to forego potentially productive investments. Similarly, it can be argued that some agencies now lack sufficient regulatory authority. Consider the carnage and waste that could be avoided by more limits on automobile use (MacKenzie et al., 1992). But the regulatory budget would likely require all agencies to reduce costs from current levels, foreclosing such opportunities to maximize net benefits.

Some regulatory relief advocates might acknowledge these biases of regulatory budgeting, but assert that they are needed to compensate for agency favoritism towards the beneficiaries of regulations. Statutes and agency cultures can undoubtedly create such biases. But oversimplified public choice theories notwithstanding, these biases are neither universal nor impervious to lobbying by interest groups representing cost-bearers (Wilson, 1980). (Asthmatics are ably represented by the American Lung Association, but they hardly dominate EPA!) Regulatory costs are already limited by the Administrative Procedure Act, the regulatory review process, and the courts (Kerwin, 1994; Eisner, 1993; McGarity, 1991).

The most radical proponents of regulatory relief argue that the claimed benefits from regulations are largely illusory. They suggest that if only the American public realized that regulations do not deliver promised results, support for the regulatory state would naturally wither away. Frankly, this rhetoric is reminiscent of that from opponents of the New Deal who were still complaining about child labor laws. The reality is that current public support for extensive regulation will surely continue, and possibly grow, if only because a richer, longer-lived population naturally becomes more risk averse and able to buy more government services.

However, there is much truth to the argument that estimates of regulatory benefits are often extremely rough guesses, at best. Developing market measures for remedies to market failures is an inherently challenging task (Boardman et al., 1997; Stone, 1997). But if these estimates are not reliable enough to be used

for regulatory budgeting, it is hard to understand why benefit-cost calculations should be made procedurally determinative, which is another commonly-suggested form of regulatory relief. One might also wonder whether regulatory cost estimates are so much more reliable than benefit estimates, enough so that budgeting should rely exclusively on them.

Is there an alternative to regulatory budgeting?

Imagine, as a new homeowner recently moved to the southeastern United States, you walk outside your garage and spy an ant walking on the driveway. Having once lay down unawares on a nest of fire ants, you understandably fear them. Might you not run into the garage, grab the nearest can of poison left by the previous owner, and rush out to spray? Without reading the label, without identifying the type of ant, without finding the nest if it is a fire ant, and without considering if there are alternatives to the spray? Adopting regulatory budgeting without addressing the problems described above is a lot like that reactive grab for the spray can.

A standard rule for doing policy analysis is to consider the alternative of 'do nothing.' This alternative deserves serious consideration here, especially since it does not require acceptance of status quo policies. Rather, existing processes of policy, social and political learning could continue to develop proposals for improving regulatory policies (May, 1992). For the reality is that there has been a tremendous amount of deregulation over the past two decades. Many price and entry controls have been eliminated or reduced – transportation is largely done, and deregulation in the energy, communications, and financial services sectors is ongoing and likely to continue (Derthick and Quirk, 1985; Hammond and Knott, 1988). The legislative process has also produced reforms to selected health and safety regulations, the 1996 amendments to the safe drinking water law being a recent example. In addition, regulatory agencies have universally reduced their reliance on command-and-control and expanded use of negotiated rulemaking and flexible compliance (National Performance Review, 1996).

Another opportunity for learning about regulatory improvements may be offered by the Government Performance and Results Act (GPRA) of 1993. GPRA requires agencies to write strategic plans, develop performance measures, and use reports about performance in the fiscal budget process. One challenging expectation in GPRA is that impacts, not just activities and outputs, be measured. Even more intimidating is its assumption that agencies can reach agreements with their oft-combative dual overseers (the President and the Congress) about the goals that they should emphasize (a critical function of strategic planning) (GAO, 1996).

If the agencies and elected officials continue their strong efforts to implement GPRA, they will repeatedly clash over their preferences for agency goals and over how to estimate the impacts of spending. These disputes should be welcomed, being far preferable to those that dominate fiscal budgeting now. Is

there any value to a months-long argument about a 0.1% difference in estimates of the GDP growth rate five years from now? Should over three decades of experience with high-level micro policy analysis become irrelevant in budgeting, leaving only simplistic ideologies about the inherent evil or good of government to guide its allocations?

In contrast, GPRA has the potential to raise questions about how cost-effective programs really are. If budgeting is to allocate resources efficiently and fairly, this is where attention should focus. But GPRA should be expanded to consider the cost-effectiveness of nonfiscal policy tools, particularly regulation. In fact, some agencies have already journeyed far down this road. For example, EPA has a decade of experience doing comparative policy analysis (National Academy of Public Administration, 1995). This analysis suggests numerous opportunities for improving impacts while reducing both fiscal and regulatory costs. Unfortunately, Members of Congress from both parties have frequently denied EPA administrators the flexibility to make such changes. GPRA's framework could eventually reduce this problem because it would confront decision-makers with cost-effectiveness data.

Consider health policy-making as another example. Our national health system is world-renowned for maximizing cost per units of quality and access. Is the solution to this glaring problem just setting annual and limits on seperate regulatory and fiscal costs? Doing so would likely continue the spiral where unaffordability reduces access to care, and resulting illnesses eventually cost society more. Might it not make more sense to set specific goals for expanded access, higher quality, and lower costs (joint improvements are clearly possible), and then debate, using tested data, how different tools might create these desired impacts?

Obviously this suggestion to emphasize GPRA over budgeting, being a massive change from current practice, could cause serious unanticipated consequences; it needs much more analysis than given here. Two issues are noted briefly, however.

One is that reducing the national fixation on macroconstraints would eliminate the 'discipline' needed to control a potential runaway government. On the other hand, a process more oriented towards micro cost-effectiveness could provide a different form of discipline, one that enables more confidence that the government is doing something worthwhile. It would be more likely to prevent the obviously unneeded regulations and spending that government critics so enjoy exposing.

Another problem is that GPRA is based on existing organizational forms. It is the agencies for whom goals are set, who measure goals, and use policy tools. Yet the organizational structure of the government is very complicated, with some agencies having directly-opposed goals (for example, Fish and Wildlife and the Corps of Engineers). Additional procedures would be needed to encourage cross-agency tradeoffs. That, of course, is one of the functions of budgeting. Perhaps in the long-run, society would be better served by having a 'superbudget,' one that would allocate society's resources in the broadest of

senses (Stein, 1989; Graham, 1976). For example, a decision could be made that spending x% of the GDP in a sector was 'too much,' which would lead to efforts to reduce this amount. This may raise the spectre of sectoral planning to conservatives, who have gone far with rhetoric that proclaims 'the era of big government is over.' Perhaps they are right, and regulatory budgeting would be an effective way to ensure this. A different image of the future, one that is supported by polling data and economic theory, is that the public will continue to demand the potentially-positive impacts of government spending and regulation. If so, than the government should use a process designed to supply more and higher-quality regulatory services rather than insist on buying fewer and lower-quality ones.

References

Benenson, Bob (1995). 'Procedural overhaul fails after three tough votes,' *Congressional Quarterly Weekly Report*, July 22, 2159–2162.

Boardman, Anthony E., David H. Greenberg, Aidan R. Vining and David L. Weimer (1996). *Cost-Benefit Analysis: Concepts and Practice*. Upper Saddle River, New Jersey: Prentice-Hall.

Cooper, Joseph and William F. West (1988. 'Presidential power and republican government: the theory and practice of OMB review of agency rules,' *Journal of Politics*, 50: September, 864–895.

Crews, Clyde Wayne, Jr. (1996). 'Promise and Peril: implementing a regulatory budget,' Washington: Competitive Enterprise Institute.

DeMuth, Christopher (1980). 'The regulatory budget,' *Regulation*, March, 29–44.

Derthick, Martha and Paul J. Quirk (1985). *The Politics of Deregulation*. Washington: Brookings.

Eads, George C. and Michael Fix (1984). *Relief or Reform? Reagan's Regulatory Dilemma*. Washington, Urban Institute.

Eisner, Marc Allen (1993). *Regulatory Politics in Transition*. Baltimore: Johns Hopkins University Press.

Friedman, Barry D. (1995). *Regulation in the Reagan-Bush Era: The Eruption of Presidential Influence*. Pittsburgh: University of Pittsburgh Press.

General Accounting Office (1996). *Executive Guide: Effectively Implementing the Government Performance and Results Act*. June.

Graham, Otis L., Jr. (1976). *Toward a Planned Society*. New York: Oxford University Press.

Gullo, Theresa and Elliott Schwartz (1997). 'The experience of the Congressional Budget Office during the first year of the unfunded mandates reform act,' Congressional Budget Office, January.

Hammond, Thomas H. and Jack K. Knott (1988). 'The deregulatory snowball: explaining deregulation in the financial industry,' *Journal of Politics*, 50: November 3–30.

Hopkins, Thomas D. (1996). 'Regulatory costs in profile,' St. Louis: Center for the Study of American Business, Policy Study 132.

Hughes, Samuel (1996). 'Regulatory Budgeting,' St. Louis: Center for the Study of American Business, Working Paper 160.

James, Harvey S., Jr. (1996). 'Implementing a Regulatory Budget: estimating the mandated private expenditure of the clean air act and safe drinking water act amendments,' St. Louis: Center for the Study of American Business, Working Paper 161.

Kerwin, Cornelius M. (1994). *Rulemaking*. Washington: Congressional Quarterly Press.

Litan, Robert E. and William D. Nordhaus (1983). *Reforming Federal Regulation*. New Haven, Yale University Press.

MacKenzie, James J., Roger C. Dower and Donald D.T. Chen (1992). *The Going Rate: What It Really Costs to Drive*. Washington: World Resources Institute.

Marannis, David and Michael Weisskopf (1996). *Tell Newt to Shut Up!* New York: Simon and Schuster.

May, Peter O. (1992). 'Policy learning and failure,' *Public Policy*, 12: 4, 331–354.

McGarity, Thomas O. (1991). *Reinventing Rationality: The Role of Regulatory Analysis in the Federal Bureaucracy*. New York: Cambridge University Press.

Meyers, Roy T. (1994). *Strategic Budgeting*. Ann Arbor: University of Michigan Press.

Morrall, John F., III (1992). 'Controlling regulatory costs: the use of regulatory budgeting,' Paris: Organization for Economic Cooperation and Development.

National Academy of Public Administration (1995). *Setting Priorities, Getting Results: A New Direction for EPA*. Washington.

National Performance Review (1996) *The Best Kept Secrets in Government*. pp. 173–185.

Savage, James (1988). *Balanced Budgets and American Politics*. Ithaca: Cornell University Press.

Stein, Herbert (1989). *Governing the $5 Trillion Economy*. New York: Oxford University Press.

Stone, Deborah (1997). *Policy Paradox: The Art of Political Decision Making*. New York: W.W. Norton.

Thompson, Fred (1997). 'Toward A Regulatory Budget,' *Public Budgeting and Finance*, 17: Spring, 89–98.

Wilson, James Q., ed. (1980). *The Politics of Regulation*. New York: Basic Books.