The Daily Dish

Congress and the Regulatory State

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Eakinomics has regularly flagged the costly rulemaking of the Biden Administration – notably a first-year record of over $200 billion in burdens imposed on the private sector – and the potential for even more explosive costs as its ambitious agenda runs into legislative gridlock. In a new paper, Dan Bosch points out that this may spur a desire for Congress to intervene and control the costs of rulemaking. What are its options?

First, it could reform the rulemaking process. It could choose to do so at the margins by modernizing the Regulatory Flexibility Act (RFA), a four-decade-old law designed to ensure that agencies consider the impacts of their rules on small entities – primarily small businesses – that are disproportionately affected by regulatory burdens. Bosch notes: "The strength of this type of RFA reform is that it would substantially improve a policy that has produced results in reducing unnecessary regulatory costs. Despite the RFA's loopholes, the SBA Office of Advocacy found that in fiscal year 2021 alone the law helped save $3.2 billion in costs on small entities, and billions more in previous years."