



Insight

The Single-Page Shutdown Special in the Federal Register

DAN GOLDBECK | JANUARY 4, 2019

Much of the fanfare in Washington, DC on January 3rd, 2019 went towards the beginning of the 116th Congress. The most pressing order of business ahead of this divided Congress is to address the lapse in funding for many federal agencies. This partial government shutdown makes January 3rd, 2019, a notable day in the history of the federal government for another reason, too. In a development sure to excite a [certain Parks and Recreation Department Director](#), this day’s [issue](#) of the Federal Register – the daily compendium of federal administrative actions – fits on a single page. Even in light of past shutdowns and other irregular regulatory periods, this brevity is seemingly unprecedented.

This single-page issue contains a mere two “notices,” which are essentially sub-regulatory administrative announcements. If one has a particular interest in either the [terms](#) of Small Business Administration disaster loans for recent storms in Illinois or an [exhibition](#) of “Egypt: The Time of Pharaohs” in Cincinnati, then this may have been a compelling issue.

Since Federal Register entries can have a lag in publication, the effects of the lapse in funding that started on December 22nd are only now becoming apparent. For perspective, in the final, post-shutdown days of 2018, there were 2,005 pages (or an average of 501 per day) worth of activity in the Federal Register. That dwindled down to 30 on [January 2nd](#), and now to one.

The digitally available Federal Register contains volumes going back to 1994. Three other sustained, observable shutdowns have occurred since then: (1) November 14-19, 1995; (2) December 16, 1995-January 6, 1996; and (3) October 1-17, 2013. The following table includes the “lowest day” for each by page count:

Shutdown	Lowest Date	Notices	Proposed Rules	Final Rules	Pages
1	11/21/1995	1		1	17
2	1/11/1996	20	2		21
3	10/17/2013	1		2	5

Even each of these “lowest days” included at least one discernable, substantive regulatory action. The only other day that appears to be notice-only came during the 2013 shutdown period on [October 9th](#), with six notices on six pages. That a mere two documents fit on a single page is all the more extraordinary. As the following table shows (using available historical [data](#)), one could generally expect an average Federal Register document to amount to at least roughly two pages.

Year	Pages	Documents	Pages Per Document Average
1994	64914	31908	2.03
1995	62645	31185	2.01

1996	64591	32630	1.98
1997	64549	33725	1.91
1998	68571	34254	2.00
1999	71161	34039	2.09
2000	74258	31925	2.33
2001	64438	32036	2.01
2002	75606	33055	2.29
2003	71269	31854	2.24
2004	75675	32377	2.34
2005	73870	32220	2.29
2006	74937	31493	2.38
2007	72090	30687	2.35
2008	79435	32013	2.48
2009	68598	30765	2.23
2010	81405	32555	2.50
2011	81247	33001	2.46
2012	78961	30877	2.56
2013	79311	30770	2.58
2014	77687	30194	2.57
2015	80260	30046	2.67
2016	95894	31184	3.08
2017	61308	27247	2.25

As with this most recent iteration, government shutdowns have usually been the result of an exceptional breakdown in deliberations over funding levels between the executive and legislative branches. But what about times when the executive branch unilaterally restricts the regulatory flow? As the American Action Forum found back during the “[regulatory freeze](#)” at the beginning of the Trump Administration, regulatory activity can slow to crawl under such circumstances. Even on the “[lowest day](#)” of such a period, however, there was still 71 pages of activity with two proposed rules and three final rules. Similar low points at the start of both the [Obama](#) and [Bush](#) Administrations also seem absolutely overwhelming by comparison, generally because the independent agencies – those outside the direct control of the White House – largely continue their regulatory output apace.

As of this posting, this shutdown does not have a clear conclusion ahead. While its ultimate resolution could come with some historically significant legislative agreement over border security measures, on the executive side, it has already made history. Even compared to past shutdowns and slowdowns, this day stands as an unprecedented pause in the otherwise constantly churning regulatory state.