Appendix: Measuring Delegation, Ex Ante Procedures, and the Type of Authority Delegated across Policy Jurisdictions

Part I: Identifying Policy Jurisdictions within Laws:

I assigned policy jurisdictions based on the House and Senate committees reporting the laws. Therefore, each jurisdiction (observation) is assigned a House and Senate committee. To identify jurisdictions within the 257 laws, I identified the House and Senate committees that referred the law to its chamber. Before the 93rd Congress (1973-1974), I employed coverage in the *CQ Almanac* to identify committees. Beginning with the 93rd Congress, this information is available on the Library of Congress’s information web page, *Thomas*.

I coded cases in which only one committee referred the law in each chamber as having one jurisdiction. When more than one committee in either chamber referred the law, I assigned each provision in the law to one House Committee and one Senate Committee based on the substance of the provisions. In matching provisions to jurisdictions, I relied on Garrison Nelson’s (1993) descriptions of House and Senate Committee jurisdictions during this period. This process ensured that every provision received a House-Senate committee pair.

Part II: Creating the Dependent Variable

The *CQ Almanac* provides summaries of the provisions of major legislation during this period. After grouping the provisions into jurisdictions, I coded whether each provision contained a delegation of authority to an executive agency and whether each provision imposed ex ante procedures. In doing so, I followed Epstein and O’Halloran (hereafter EO) (1999), who coded the provisions of the *CQ Almanac* summaries to analyze discretion. Following their lead, I coded a “provision that gives another governmental body the authority to move policy away from the status quo” as delegating authority (EO 1999, 275). EO detailed the basis of their
coding decisions conscientiously, noting that provisions were coded as delegations if they included, “the authorization of a new program with some discretionary powers; discretion to make or modify decision-making criteria; extension of discretionary authority that would otherwise expire; the creation of a new commission, board, or agency; demonstration projects; grants and loans where the agency determines the size of the award and/or the recipients; the right to issue subpoenas; the right to bring suit or intervene in existing suit; the right to issue waivers; the ability to enter into contracts” (EO 1999, 276). I followed these criteria with one exception: I did not code provisions that established boards, commissions, or agencies as constituting delegations, since the establishment of such entities does not ipso facto mean that they can influence policy. This process produced a count of the number of provisions delegating authority to executive agencies within each jurisdiction.

To record whether provisions imposed ex ante procedures using “constraining” or “facilitating” procedures, I also followed EO (1999), who identified the procedures itemized in Table 2, employing EO’s coding rules. Briefly, these rules dictate that provisions be coded as:

1. “rulemaking requirements” if they circumscribe how an agency can make a decision by requiring the agency to follow “standards and criteria” (EO 1999, 282);
2. “spending limits” if they “define a maximum amount that an agency can allocate to any activity or set of activities, either stated explicitly or in a formula” (EO 1999, 277);
3. “exemptions” if they excluded “a specific group or class of interests” from an agencies decision (EO 1999, 282-283);
4. “compensations” if they required the agency to provide recompense to parties adversely affect by agency decisions EO (1999, 283).
Importantly, some provisions contained more than one type of procedure. Such provisions were coded as having as many types of procedures as were present. Thus, if a provision contained a rulemaking requirement and a spending requirement, it was coded as imposing two procedures. This rule is appropriate since provisions with \( n \) types of controls place \( n \) times the burden on agencies.

To ensure reliability, 25% of the laws were drawn randomly. A second coder coded all of these laws’ provisions. The reliability diagnostics for these decisions are presented in Table A1. The diagnostics are for a dummy variable measuring the presence of delegation (1=delegation; 0 otherwise) and a multinomial variable measuring the presence of ex ante procedures (0=no control, 1-4 as indicated in the itemization of procedures above). The kappa statistics, assessing whether there was more agreement between these coding decisions than would have occurred by chance, are statistically significant, demonstrating the reliability of the variables used to create the dependent variables.

Part III: Coding for the Delegation of Regulatory, Distributive and Redistributive Authority

To identify the delegation of regulatory, distributive and redistributive authority, I relied on Meier’s (2000) classification of these policies. Regulatory policy involves agencies possessing the authority to restrict criminal activity, to make binding decisions to foster a fair and competitive marketplace, to make binding decisions on access to public goods and to make binding decisions to promote the public health and safety. If the policies delegated such authority to agencies, the regulatory policy dummy variable was coded 1; 0 otherwise. Redistributive policy involves authority to promote income stabilization, provide for welfare payments, healthcare payments, payments for housing, and engage in income distribution. If such policy authority was delegated to agencies, the redistributive policy dummy variable was coded 1; 0
otherwise. Distributive policies “use general tax revenue or other nonuser taxes to provide benefits directly to individuals” (2000, 101). Such policies include subsidies, government supported research, the collection and dissemination of information and the provision of government insurance. If such authority was delegated to agencies, the distributive policy dummy variable was coded 1; 0 otherwise. To ascertain whether such authority was delegated for each variable, each provision of each law-policy jurisdiction that delegated authority to an agency was read. If any of the provisions delegating authority within a law-policy jurisdictions delegated any authority to perform the tasks itemized above related to these policy areas, the appropriate variable was coded 1; 0 otherwise. A second coder replicated this coding scheme for 25% of the law-policy jurisdictions to ensure the reliability of the scheme. The results provided in Table A1 indicate that these classifications are reliable.
Table A1. The Reliability of Variables Constructed from Content Analysis

<table>
<thead>
<tr>
<th>Variable</th>
<th>% Expected Agreement</th>
<th>% Agreement</th>
<th>Kappa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delegation</td>
<td>69.79</td>
<td>87.94</td>
<td>.60*</td>
</tr>
<tr>
<td>Procedures Limiting Influence over Agencies</td>
<td>83.55</td>
<td>88.53</td>
<td>.30*</td>
</tr>
<tr>
<td>Regulatory Policy Authority Delegated</td>
<td>47.08</td>
<td>67.57</td>
<td>.38*</td>
</tr>
<tr>
<td>Distributive Policy Authority Delegated</td>
<td>69.28</td>
<td>86.49</td>
<td>.29*</td>
</tr>
<tr>
<td>Redistributive Policy Authority Delegated</td>
<td>83.89</td>
<td>90.54</td>
<td>.41*</td>
</tr>
</tbody>
</table>

Notes: *=p<.001. n=3416 for “Delegation”; n=3434 for “Procedures Limiting Influence over Agencies.” There are more observations for the “Procedures” than “Delegation” because one or both coders considered 19 provisions within the CQ summaries to have two or more procedures. n=74 for Regulatory Policy Delegated, Distributive Policy Delegated and Redistributive policy delegated. There are fewer observations for the coding of the policy areas because they were coded as to whether law-jurisdiction pairs delegated policy authority in these areas. As is clear in the main text, the “Delegation” and “Procedures” variables, on the other hand, were coded from individual provisions within the law-jurisdiction pairs.