

If you've seen a statement that regulations are hidden taxes, that's not too surprising. Googling "regulation hidden taxes" produces over three million hits. But in fact, pollution regulations and taxes are completely different.

The reason is simple. A tax removes value from the private sector. Environmental regulations simultaneously remove value from one part of the private sector and increase value elsewhere (usually in the form of improved health). Both effects have to be considered in tandem. Well-designed environmental regulations actually make the private sector as a whole better off.

The difference between taxes and regulation is also important if we think in terms of rights. A tax is an incursion into property rights — a necessary incursion but still an incursion. But an environmental regulation has dual effects. On the one hand, it restricts the polluter's right to make use of its property — but on the other hand, it protects the rights of individuals not to be exposed to harmful substances without their consent. We can also think of this in terms of property rights. For instance, pollution regulations define "ownership" of the atmosphere as a resource, determining the boundary between the rights of emitters to use the atmosphere to dispose of waste and the rights of members of the public to use the atmosphere as an air supply.

If compliance costs indirectly raise the cost of consumer products, a potential side-effect is to reduce the incentive to work since the same amount of wages will buy fewer consumer goods. People might also invest less, since their investment returns won't buy them as much. But it's not clear that this is something we should worry about with pollution regulations. A healthier population will be more productive and willing to work more than a sickly one. And if regulation reduces premature deaths, people have a greater incentive to save for retirement and more of an incentive to invest in human capital as well.

Particular regulations may be good or bad. If a particular regulation is a bad idea, we shouldn't have it. But that's not because it's like a tax. It's because we should favor good regulations, not bad ones.