The Daily Dish

Biden Reveals His Regulatory Aims

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Eakinomics: Biden Reveals His Regulatory Aims

As Eakinomics recently noted, the Biden Administration's approach to the federal regulatory burden will be an important component of its growth strategy (or anti-growth strategy, as the case may be). As AAF's Dan Bosch discusses, in the process of releasing the president's "Day One" regulatory executive orders the administration showed its hand.

The non-surprise was "Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation," which rescinded the Trump framework for controlling the regulatory burden. Gone is Executive Order (EO) 13,771, which established "one in, two out" and the core incentives to eliminate existing regulations in order to issue new significant regulations. Gone also is EO 13,777 and the agency regulatory review teams tasked with finding candidate regulations to revoke.

The supposed rationale for revoking these Trump EOs is that they overly limit the responses to the COVID-19 pandemic, economic recovery, racial injustices, and climate change. No, not really. The real limitation is their willingness to require agencies to eliminate existing rules when issuing new regulations.

The surprise was that this was not enough grease for their regulatory skids. The real evidence of the forthcoming regulatory push is "Modernizing Regulatory Review" (MRR). It tasks the Office of Management and Budget (OMB) director to recommend changes to regulatory review by the Office of Information and Regulatory Affairs (OIRA). As Bosch puts it: "OIRA has conducted regulatory reviews for decades. Its primary function in this role is to ensure that agencies properly assess a regulation's costs and benefits to society. The Biden memorandum appears to be based on an unfounded premise that this review is more concerned with costs than benefits."

Specifically, MRR pushes OIRA to fully account "for regulatory benefits that are difficult or

impossible to quantify, and does not have harmful anti-regulatory or deregulatory effects." Bosch points out that "There is no mention of costs that are similarly difficult to quantify." The bias is significant, but it doesn't stop there. MRR also directs the OMB director to "consider ways that OIRA can play a more proactive role in partnering with agencies to explore, promote, and undertake regulatory initiatives that are likely to yield significant benefits."

The implication is clear: Agencies need not worry about minimizing regulatory costs. Indeed, they should spend their time focusing on benefits, and will be able to count on OIRA to aid and abet this effort. This is undisguised bad news for the future environment for economic growth.