



The Daily Dish

Expanding Regulatory Oversight

DOUGLAS HOLTZ-EAKIN | JANUARY 12, 2021

Eakinomics: Expanding Regulatory Oversight

Dan Bosch, AAF's sharp-eyed Director of Regulatory Policy, noticed that "On the final day of 2020, the Department of Justice (DOJ) released an [opinion](#) memorandum regarding whether the regulations of independent agencies can be reviewed by the White House's Office of Information and Regulatory Affairs (OIRA), an office within the Office of Management and Budget (OMB). The opinion concludes that the president may direct independent agencies to comply with the same review process described in Executive Order (EO) 12,866." In practice, this means that OIRA would review significant draft rules from independent agencies at both the proposed and final rulemaking stages. For "economically significant" rules (having a \$100 million impact on the economy), OIRA would also review the economic analyses.

As it turns out, the opinion is dated October 8, 2019, even though it was not released until December 31, 2020. That implies the Trump Administration did not pursue expanding the net of regulatory oversight, even though it evidently could. To get a feel for the scale of the potential expansion, here is the list of potential independent agencies that could be included:

- Consumer Financial Protection Bureau
- Consumer Product Safety Commission
- Export-Import Bank of the United States
- Farm Credit Administration
- Federal Communications Commission
- Federal Deposit Insurance Corporation
- Federal Election Commission
- Federal Housing Finance Agency
- Federal Labor Relations Authority

Federal Reserve System
Federal Trade Commission
National Credit Union Administration
National Labor Relations Board
National Transportation Safety Board
Securities and Exchange Commission
U.S. Commodity Futures Trading Commission
U.S. International Trade Commission
U.S. Nuclear Regulatory Commission
Central Intelligence Agency
Administrative Conference of the United States
African Development Foundation
Commission on Presidential Scholars
Commission on Security and Cooperation in Europe (Helsinki Commission)
Corporation for National and Community Service
Defense Nuclear Facilities Safety Board
Denali Commission
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
Federal Retirement Thrift Investment Board
Institute of Museum and Library Services
Inter-American Foundation
Merit Systems Protection Board
Millennium Challenge Corporation
National Capital Planning Commission
National Railroad Passenger Corporation
Occupational Safety and Health Review Commission
Overseas Private Investment Corporation (now the International Development Finance Corporation)
Postal Regulatory Commission
Surface Transportation Board
Tennessee Valley Authority
U.S. Agency for Global Media
U.S. Trade and Development Agency

Wow.

It is pretty straightforward to imagine, for example, the Consumer Financial Protection

Bureau or the Commodity Futures Trading Commission being subjected to regulatory review. But I suspect that the politics of pulling in the Federal Reserve or the Denali Commission (not to mention the Central Intelligence Agency) would be a bit too much.

Nevertheless, the opinion is now in the public domain, and any future administration has the wherewithal to expand the scope of regulatory review. In economic policy, for example, it makes sense to level the regulatory playing field across as many agencies as possible; it will be interesting to see if the Biden Administration will pursue this path.