



The Daily Dish

A Dive Into (the weeds of) Regulatory Reform

DOUGLAS HOLTZ-EAKIN | JULY 18, 2019

Eakinomics: A Dive Into (the weeds of) Regulatory Reform

The American Action Forum is committed to [tracking](#) the regulatory state, and the policies that would modify it. To date, regulatory reform has been a lifeless issue in this Congress, but as AAF's Dan Bosch and Jillian Provost [write](#): "The Senate Committee on Small Business and Entrepreneurship is expected to mark up a bill soon to reauthorize the Small Business Administration (SBA) including draft language that promises to give small businesses a stronger voice on rules that directly affect them." Let's count that as one breath of life in regulatory reform.

The specific idea is to expand the use of Small Business Advocacy Review (SBAR) panels (or just "small business panels") on those rules that are especially onerous for small businesses. Small businesses are an important part of the U.S. economy (they are 99.9 percent of all businesses and employ just under one-half of U.S. workers) and the research indicates that they are disproportionately burdened by regulations. These dual facts have been recognized for a long time. In 1980, with the Regulatory Flexibility Act (RFA), and in 1996, with the Small Business Regulatory Enforcement Fairness Act (SBREFA), Congress gave small businesses a specific mechanism to advocate for flexible regulations that place as little a burden as possible on small businesses.

The RFA requires agencies to specifically consider how regulations will affect small businesses. SBREFA went further by mandating that specific federal agencies — originally the Environmental Protection Agency and the Occupational Safety and Health Administration, and later the Consumer Financial Protection Bureau — conduct SBAR panels. As the authors explain, "These panels are comprised of federal employees from the specified agencies, the Office of Advocacy (an independent agency at SBA), and the Office of Information and Regulatory Affairs. The panels interact directly with small businesses owners and other stakeholders before rules are proposed with the goal of increasing efficiency and minimizing burden. History shows that the panels can be effective at allowing agencies to meet their objectives while reducing direct compliance impacts on small businesses."

If SBARs are such a good thing, why stop at three agencies? The most common reason given is that this it would be overly burdensome to require every agency to set up SBARs for the appropriate rules. The reauthorization language falls short of this but would expand panels to include the Department of the Interior, the Department of Labor, the Internal Revenue Service, the Federal Deposit Insurance Corporation, and the SBA. These agencies often issue regulations that could be considered unduly burdensome on small businesses.

The AAF study goes one step further and examines the data from the Spring 2019 [Unified Agenda](#) of Regulatory and Deregulatory Actions to estimate the number of additional panels that would be expected from the current slate of rules. What is the bottom line? The authors conclude that “the proposed reform would yield as many as 27 new panels, which would provide meaningful review of a selection of rules.” They also do “not anticipate it would overwhelm the agencies involved.”

It is far short of broad-based legislative reform that would enshrine regulatory budgets or other reforms. But it is a sensible step in the right direction for regulations and small businesses.