



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.