

Both sides seek insight about OIRA nominee

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Administrative law experts are gearing up for tomorrow's highly anticipated -- at least in the arcane world of federal rulemaking -- nomination hearing for the next regulatory czar.

Part of the reason Howard Shelanski's nomination to be administrator of the White House Office of Information and Regulatory Affairs (OIRA) is drawing so much attention is that he's a bit of an unknown factor in regulatory world.

A lawyer and economist, Shelanski currently serves as the director of the Federal Trade Commission's Bureau of Economics.

Progressives like the fact that Shelanski, a former senior economist in the Clinton White House, also served as a faculty member at the decidedly liberal University of California, Berkeley. Conservatives like the part of Shelanski's resume that includes a clerkship for Supreme Court Justice Antonin Scalia.

In a blog post for the Center for Effective Government, formerly known as OMB Watch, regulatory policy analyst Katie Weatherford noted yesterday that tomorrow's hearing will shed some light on the man Obama picked to lead one of the top offices within the Office of Management and Budget.

"We do not know Mr. Shelanski's views on OIRA's role in the regulatory process or the use of strict cost-benefit analysis to determine whether to approve standards developed by agency experts," she wrote. "But we have several questions we hope Mr. Shelanski will answer during his confirmation process."

Most of those questions have to do with OIRA's opaque rule review process.

OIRA is charged with examining agency rules before they are enacted to determine, among other things, whether alternatives were considered and whether the costs and benefits of the proposed regulation were properly weighed.

By the time he stepped down from OIRA last fall, former Administrator Cass Sunstein was seen by progressive groups as being too business-friendly in rule reviews. Those groups have described OIRA as something of a regulatory black hole where rules can disappear for years despite an executive order that gives OIRA 90 days to conduct its reviews, along with a possible 30-day extension.

Today, public interest groups calling themselves the Coalition for Sensible Safeguards issued a [report](#) that highlights eight of the 71 rules that, as of today, have been held under OIRA review for more than 90 days.

The report highlights the "human consequences" of those delays. In its discussion of a stalled rule to address coal ash waste, the report argues that power plants and coal ash reuse companies worked to slow the rule down while residents of communities located near waste disposal sites, such as one in Little Blue Run, located near the convergence of Ohio, Pennsylvania and West Virginia, suffered.

"The public overwhelmingly supports cleaner air and safer workplaces, but powerful industries that would be inconvenienced by new safeguards have often been able to stop them in their tracks in the rulemaking process," said Robert Weissman, co-chairman of the coalition, in a release announcing the report. "The irony is we're still suffering the effects of an economic downturn caused largely by severe underregulation of financial markets, and here we are having a debate about whether we should regulate or not."

In a blog [post](#) today for the Center for Progressive Reform, Sidney Shapiro and James Goodwin argued that Shelanski's hearing comes at a "crucial juncture" in Obama's presidency.

"Progress on many important rules has been halted, including the EPA's rule to limit greenhouse gas emissions from future power plants," the men wrote. "If the President is to live up to his promise in his first post-election State of the Union address to take decisive action on pressing issues such as climate change, OIRA will have to change its tune. We will be listening during the hearing to see whether Shelanski is prepared to finish up regulations that are necessary to protect the public and the environment, rather than continuing the tortoise-like review process that has characterized the President's first term."

Also today, the Institute for Policy Integrity at New York University, which was quick to express support for Obama's pick of Shelanski back in April, sent members of Congress a letter outlining a [framework](#) for discussion on OIRA's rule reviews that it said could address concerns about undue regulatory delays while also balancing the need for thorough regulatory reviews.

Shelanski's nomination hearing will take place tomorrow before the Senate Homeland Security and Governmental Affairs Committee ([E&E Daily](#), June 10).

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