



**Does an IG Regulation
Exist When the
Enforcement Agency is
Eliminated?**



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This is not intended to be a political discussion.

- Purpose and Reason For This Discussion
- Other Enforcement Mechanisms
 - Enforcement by Other Government Agencies
 - Roles of States
 - Private Actions Based on Laws / Regulations



Purpose and Reason for this Discussion



- On March 14, 2025, President Trump issued the “Continuing the Reduction of the Federal Bureaucracy,” which eliminates the non-statutory components and reduces the statutory functions and workforce of the following government entities:
 - The Community Development Financial Institutions Fund
 - The Federal Mediation and Conciliation Service
 - The Institute of Museum and Library Services
 - The Minority Business Development Agency
 - The United States Agency for Global Media
 - The United States Interagency Council on Homelessness
 - The Woodrow Wilson International Center for Scholars in the Smithsonian Institution
- On March 20, 2025, President Trump signed an executive order to begin shutting down several functions of the Department of Education (DOE). Congress will need to approve the elimination of the Cabinet.

Purpose and Reason for this Discussion

Other Federal Agencies Eliminated In History

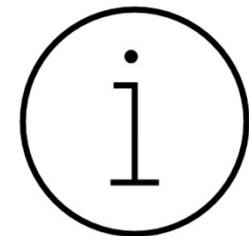
- Agricultural Adjustment Administration (1933 – 1942)
- Civil Aeronautics Board (1940 – 1985)
- Environmental Science Services Administration (1965 – 1970)
- Defense Civil Preparedness Agency (1972 - 1979)
- United States Assay Commission (1792 – 1980)
- United States Coast and Geodetic Survey (1807 -1965)
- United States Bureau of Fisheries (1871 – 1940)
- Works Progress Administration (1935 - 1942)

Purpose and Reason for this Discussion



If the Federal agencies responsible for those laws are eliminated, and those laws involve records or information management, why should our organization still comply with the law?

There is a difference between the elimination or reduction of an agency, and the elimination or repeal of a law or regulation. If a law or regulation still exists, then there are multiple enforcement mechanisms.



Other Enforcement Mechanisms

- Enforcement by Other Government Agencies
- Roles of States
- Private Actions Based on Laws / Regulations

Enforcement by Other Government Agencies Historical Examples

Civil Aeronautics Board

Many existing regulations now under the following agencies:

- Federal Aviation Agency
- National Transportation Safety Board
- Secretary of Transportation
- U.S. Postal Office

Bureau of Fisheries –

Regulations now under the Fish and Wildlife Service

Civil Preparedness Agency –

Functions transferred to Department of Defense to the Federal Emergency Management Agency

Environmental Science Services Administration and U.S. Coast and Geodetic Survey

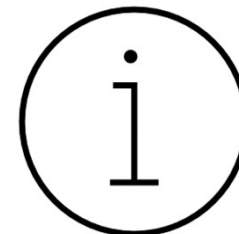
regulations now under the National Oceanic and Atmospheric Administration

Enforcement by Other Government Agencies Family Educational Rights and Privacy Act (FERPA)



Who will enforce FERPA if Congress eliminates the Department of Education?

Currently, the Department of Education (DOE) enforces FERPA regulations. If DOE is eliminated, Congress may choose to shift enforcement of FERPA regulations to another agency.





Other Enforcement Mechanisms



Roles of States

1. States may have similar laws with record keeping requirements (Ex. Broker Dealers, Environment, Investment Advisors, Labor, Mortgage Origination, Tax)
2. Some state regulations incorporate Federal requirements, citing the actual Federal law or regulation in the state law or regulation (Ex. Hazardous Waste, OSHA Accident Logs, Waste-Water)
3. Federal government may choose to keep certain laws and regulations but shift the enforcement to the states (Ex. Unfair and Deceptive Trade Practices)

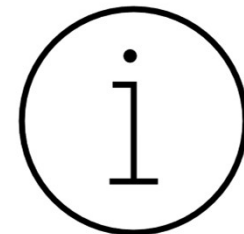
Private Right of Action



Why do companies sometimes spend so much money to fight a small regulatory fine?

Under the doctrine of negligence per se, a defendant can be held negligent if their violation of a statute or regulation causes harm to a plaintiff.

This means that failure to comply with a law or regulation, including record keeping requirements, can have large civil liabilities.



There is a distinction between the elimination of an agency and the repeal of a law or regulation. If an agency is eliminated, the requirement may still be enforced by:

1. Another Federal agency
2. Similar state law or regulation
3. Private or Civil Action





Questions



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