

H O N O R A B L E M E N T I O N

DEREGULATION USING STEALTH “SCIENCE” STRATEGIES

by Thomas O. McGarity and Wendy E. Wagner

In this Article, the authors explore the “stealth” use of science by the Executive Branch to advance deregulation and highlight the limited, existing legal and institutional constraints in place to discipline and discourage these practices. Political appointees have employed dozens of strategies over the years, in both Democratic and Republican administrations, to manipulate science in ends-oriented ways that advance the goal of deregulation. Despite this bald manipulation of science, however, the officials frequently present these strategies as necessary to bring “sound science” to bear on regulatory decisions. To begin to address this problem, it is important to reconceptualize how the administrative state addresses science-intensive decisions. Rather than allow agencies and the White House to operate as a cohesive unit, institutional bounds should be drawn around the scientific expertise lodged within the agencies. We propose that the background scientific work prepared by agency staff should be firewalled from the evaluative, policymaking input of the remaining officials, including politically appointed officials, in the agency.

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