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A Last Push To Deregulate

White House to Ease Many Rules

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[The White House](#) is working to enact a wide array of federal regulations, many of which would weaken government rules aimed at protecting consumers and the environment, before [President Bush](#) leaves office in January.

The new rules would be among the most controversial deregulatory steps of the Bush era and could be difficult for his successor to undo. Some would ease or lift constraints on private industry, including power plants, mines and farms.

Those and other regulations would help clear obstacles to some commercial ocean-fishing activities, ease controls on emissions of pollutants that contribute to global warming, relax drinking-water standards and lift a key restriction on mountaintop coal mining.

Once such rules take effect, they typically can be undone only through a laborious new regulatory proceeding, including lengthy periods of public comment, drafting and mandated reanalysis.

"They want these rules to continue to have an impact long after they leave office," said Matthew Madia, a regulatory expert at OMB Watch, a nonprofit group critical of what it calls the Bush administration's penchant for deregulating in areas where industry wants more freedom. He called the coming deluge "a last-minute assault on the public . . . happening on multiple fronts."

White House spokesman [Tony Fratto](#) said: "This administration has taken extraordinary measures to avoid rushing regulations at the end of the term. And yes, we'd prefer our regulations stand for a very long time -- they're well reasoned and are being considered with the best interests of the nation in mind."

As many as 90 new regulations are in the works, and at least nine of them are considered "economically significant" because they impose costs or promote societal benefits that exceed \$100 million annually. They include new rules governing employees who take family- and medical-related leaves, new standards for preventing or containing oil spills, and a simplified process for settling real estate transactions.

While it remains unclear how much the administration will be able to accomplish in the coming weeks, the last-minute rush appears to involve fewer regulations than Bush's predecessor, [Bill Clinton](#), approved at the end of his tenure.

In some cases, Bush's regulations reflect new interpretations of language in federal laws. In other cases, such as several new counterterrorism initiatives, they reflect new executive branch decisions in areas where Congress -- now out of session and focused on the elections -- left the president considerable discretion.

The burst of activity has made this a busy period for lobbyists who fear that industry views will hold less sway

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after the elections. The doors at the New Executive Office Building have been whirling with corporate officials and advisers pleading for relief or, in many cases, for hastened decision making.

According to the [Office of Management and Budget](#)'s regulatory calendar, the commercial scallop-fishing industry came in two weeks ago to urge that proposed catch limits be eased, nearly bumping into National Mining Association officials making the case for easing rules meant to keep coal slurry waste out of Appalachian streams. A few days earlier, lawyers for kidney dialysis and biotechnology companies registered their complaints at the OMB about new [Medicare](#) reimbursement rules. Lobbyists for customs brokers complained about proposed counterterrorism rules that require the advance reporting of shipping data.

Bush's aides are acutely aware of the political risks of completing their regulatory work too late. On the afternoon of Bush's inauguration, Jan. 20, 2001, his chief of staff issued a government-wide memo that blocked the completion or implementation of regulations drafted in the waning days of the Clinton administration that had not yet taken legal effect.

"Through the end of the Clinton administration, we were working like crazy to get as many regulations out as possible," said Donald R. Arbuckle, who retired in 2006 after 25 years as an OMB official. "Then on Sunday, the day after the inauguration, OMB Director [Mitch Daniels](#) called me in and said, 'Let's pull back as many of these as we can.' "

Clinton's appointees wound up paying a heavy price for procrastination. Bush's team was able to withdraw 254 regulations that covered such matters as drug and airline safety, immigration and indoor air pollutants. After further review, many of the proposals were modified to reflect Republican policy ideals or scrapped altogether.

Seeking to avoid falling victim to such partisan tactics, White House [Chief of Staff Joshua B. Bolten](#) in May imposed a Nov. 1 government-wide deadline to finish major new regulations, "except in extraordinary circumstances."

That gives officials just a few more weeks to meet an effective Nov. 20 deadline for the publication of economically significant rules, which take legal effect only after a 60-day congressional comment period. Less important rules take effect after a 30-day period, creating a second deadline of Dec. 20.

OMB spokeswoman Jane Lee said that Bolten's memo was meant to emphasize the importance of "due diligence" in ensuring that late-term regulations are sound. "We will continue to embrace the thorough and high standards of the regulatory review process," she said.

As the deadlines near, the administration has begun to issue regulations of great interest to industry, including, in recent days, a rule that allows natural gas pipelines to operate at higher pressures and new Homeland Security rules that shift passenger security screening responsibilities from airlines to the federal government. The OMB also approved a new limit on airborne emissions of lead this month, acting under a court-imposed deadline.

Many of the rules that could be issued over the next few weeks would ease environmental regulations, according to sources familiar with administration deliberations.

A rule put forward by the [National Marine Fisheries Service](#) and now under final review by the OMB would lift a requirement that environmental impact statements be prepared for certain fisheries-management decisions and would give review authority to regional councils dominated by commercial and recreational fishing interests.

An Alaska commercial fishing source, granted anonymity so he could speak candidly about private conversations, said that senior administration officials promised to "get the rule done by the end of this

month" and that the outcome would be a big improvement.

Lee Crockett of the [Pew Charitable Trusts'](#) Environment Group said the administration has received 194,000 public comments on the rule and protests from 80 members of Congress as well as 160 conservation groups. "This thing is fatally flawed" as well as "wildly unpopular," Crockett said.

Two other rules nearing completion would ease limits on pollution from power plants, a major energy industry goal for the past eight years that is strenuously opposed by Democratic lawmakers and environmental groups.

One rule, being pursued over some opposition within the [Environmental Protection Agency](#), would allow current emissions at a power plant to match the highest levels produced by that plant, overturning a rule that more strictly limits such emission increases. According to the EPA's estimate, it would allow millions of tons of additional carbon dioxide into the atmosphere annually, worsening global warming.

A related regulation would ease limits on emissions from coal-fired power plants near national parks.

A third rule would allow increased emissions from oil refineries, chemical factories and other industrial plants with complex manufacturing operations.

These rules "will force Americans to choke on dirtier air for years to come, unless Congress or the new administration reverses these eleventh-hour abuses," said lawyer John Walke of the [Natural Resources Defense Council](#).

But Scott H. Segal, a Washington lawyer and chief spokesman for the Electric Reliability Coordinating Council, said that "bringing common sense to the Clean Air Act is the best way to enhance energy efficiency and pollution control." He said he is optimistic that the new rule will help keep citizens' lawsuits from obstructing new technologies.

[Jonathan Shradar](#), an EPA spokesman, said that he could not discuss specifics but added that "we strive to protect human health and the environment." Any rule the agency completes, he said, "is more stringent than the previous one."

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