



FOR IMMEDIATE RELEASE:
Wednesday, April 20, 2011

Contact: Ben Somberg, 202.658.8129
bsomberg@progressivereform.org

New Report from CPR Urges Administration to Adopt a ‘Sense of Urgency’ about Finishing Work on 12 Key Environmental, Health and Safety Regulations

With First-Term Window for Key Regulatory Safeguards Closing Soon, Report Asks, ‘Will Obama Administration Finish in Time?’

Washington, DC ----- A new report from the Center for Progressive Reform identifies 12 critical but unfinished environmental, health, and safety regulations still on the Obama Administration’s to-do list, and warns that nine of those regulations are in danger of not being completed during the President’s first term.

The regulations identified in the report cover a range of issues, including hazardous air pollution from boilers, ozone and particulate matter air pollution, greenhouse gas emissions for petroleum refineries and power plants, fuel economy for vehicles, the reach of clean water regulations, stormwater runoff pollution, mountaintop removal mining, coal ash disposal, worker safety, miner safety, infant formula safety, and toxic chemicals.

“The Administration came to town with a long to-do list of environmental, health, and safety rules,” said report co-author and CPR President Rena Steinzor, “largely because the Bush administration all but put the brakes on regulatory safeguards for eight years. We’re now 27 months into the Administration, and the practical window for getting some of these rules done will begin to close next summer. The hard truth is that we’re not seeing the necessary sense of urgency.” Steinzor is a professor of law at the University of Maryland.

The report, [*Twelve Crucial Health, Safety, and Environmental Regulations: Will the Obama Administration Finish in Time?*](#), notes that the failure to complete work on the nine endangered rules “would not be the consequence of congressional interference or other political opposition, but a flat out failure of the Administration to get its work done in a timely manner – a straightforward unforced error with potentially huge consequences.” The 12 rules identified in the report are the province of several agencies, including the Environmental Protection Agency (EPA), the National Highway Traffic Safety Administration (NHTSA), the Army Corps of Engineers, the Department of Interior’s Office of Surface Mining Reclamation and Enforcement (OSMRE), the Occupational Safety and Health Administration (OSHA), the Mine Safety and Health Administration (MSHA), and the Food and Drug Administration (FDA).

The nine key rules described in the report as in danger of not being finished are:

- New Source Performance Standards to Reduce Greenhouse Gas Emissions from Petroleum Refineries and Power Plants (EPA);
- Corporate Average Fuel Economy (CAFE) standard for light duty vehicles, model years 2017-2025 (EPA and NHTSA);
- Guidance on the Scope of the Clean Water Act (EPA);
- National Stormwater Program Rule (EPA);
- Mountaintop Removal Mining Rules (Guidance for Applying Clean Water Act Permits to Mining Operations and Stream Buffer Rule) (EPA and Interior OSMRE);
- Coal Ash Disposal Rule (EPA);
- Injury and Illness Prevention Program (OSHA);
- Pattern of Violations Policy (MSHA); and
- Chemicals of Concern List (EPA).

The report identifies three vital rules that are “on track so far,” but notes that unanticipated delays could cast them into doubt, as well. It notes that even if work on the rules is finished in time, regulated industry and its ideological allies in Congress will have opportunities to pressure the issuing agencies into weakening the rules before they are made final, so that they are less protective than the law and relevant science call for.

“These rules would provide critical protections,” said co-author Amy Sinden, a CPR Member Scholar and professor of law at Temple University. “The coal ash rule, for example, has been slowed down by an extraordinary lobbying campaign from industry, and by delays from the White House Office of Information and Regulatory Affairs. A strong rule would protect communities across the nation from coal ash spills like the one in Kingston, Tennessee in 2008. Similarly, the Pattern of Violations Policy that MSHA is in danger of leaving undone is a chance to crack down on mine operators who are serial violators of mining safety laws, like the Massey Energy Company, whose Upper Big Branch mine disaster in West Virginia killed 29. In addition, EPA needs to finish its work on new source performance standards to reduce greenhouse gas emissions at power plants and oil refineries. If the Obama EPA doesn’t get that done, and the President is not reelected, it will likely be the last chance for many years to have meaningful federal limits on the industrial greenhouse gas emissions that cause climate change.”

“The clock started ticking on all these regulations long ago,” Sinden continued, “and the Administration has had the time it needs to get them out the door. If they don’t finish, they’ll have no one to blame but themselves.”

The report concludes that “the Administration is currently on a trajectory that makes it possible, even likely, that it will not complete work on the regulation[s] by the end of the President’s first term.”

The report says that three factors will play an outsized role in whether the Administration finishes in time:

- **Delays from the Office of Information and Regulatory Affairs**, home to so-called “regulatory czar” Cass Sunstein. OIRA is at this moment exceeding its mandate in its review of three of the 12 rules, by missing legal deadlines, or by reviewing standards it lacks authority to review. The report calls on OIRA to stop delaying, and “either act or get out of the way.”

- **Needlessly protracted deliberations by the agencies themselves.** In some cases, agencies are simply missing their own deadlines. The infant formula rule, for example, is more than a decade overdue.
- **Pressure from anti-regulatory interests.** Political pressure from industry and its allies in Congress is inevitable. The question is whether regulators and the White House buckle in the face of that pressure.

The report authors write, “In the case of all 12 of these regulations, however, diligence and a sense of urgency on the part of the Administration will be the single most important factor in determining whether or not regulations are issued before the end of the President’s first term. So far, that sense of urgency has been lacking in a number of conspicuous instances, and it has been particularly evident in the case of a number of OIRA-imposed delays on regulations.”

Steinzor and Sinden’s co-authors on the report were CPR Policy Analysts Matthew Shudtz, James Goodwin, Yee Huang, and Lena Pons. A number of CPR scholars, acknowledged in the report, also contributed their expertise on particular regulatory issues.

The report is available online at http://www.progressivereform.org/articles/12rules_1106.pdf.

-- 30 --

The Center for Progressive Reform is a nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. Visit CPR on the web at www.progressivereform.org, and read CPRBlog at www.progressivereform.org/cprblog.