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Obama Regulatory Efforts Earn Mixed Reviews

Administration Earns B- in 'Obama's Regulators: A First-Year Report Card'

Washington, DC – The Obama Administration's first-year accomplishments on the regulatory front are a vast improvement over the Bush Administration's record, but still short of the standard the President set for himself on the campaign trail, according to [Obama's Regulators: A First-Year Report Card](#), issued by the Center for Progressive Reform. The report reviews the work of the government's five "protector" agencies (CPSC, EPA, FDA, NHTSA, OSHA) as well as the impact of the White House Office of Information and Regulatory Affairs, issuing agency-by-agency grades. The overall grade for the Administration: B-.

"There's no comparison with the Bush Administration," said CPR President Rena Steinzor, one of the co-authors of the report and a law professor at the University of Maryland. "The Obama Administration has made breakthroughs in a number of key areas, particularly at EPA, NHTSA, and FDA. But it's not good enough simply to outpace the miserable record of the Bush Administration. The appropriate standard is whether the Obama Administration is living up to the President's campaign commitment to use the regulatory system to protect Americans from harm. And by that standard, the Administration still has a long road ahead of it. The President has begun the journey, but needs to quicken his step."

The authors, CPR President Steinzor, Member Scholar Amy Sinden, Executive Director Shana Jones, and Policy Analyst James Goodwin, examined in detail the progress made by the five protector agencies, awarding the following grades to each, based on their fulfillment of President Obama's stated goals:

- Consumer Product Safety Commission (CPSC): **Final Grade: C**
- Environmental Protection Agency (EPA): **Final Grade: B**
- Food and Drug Administration (FDA): **Final Grade: B**
- National Highway Traffic Safety Administration (NHTSA): **Final Grade: B-**
- Occupational Safety and Health Administration (OSHA): **Final Grade: C**

In addition, the authors examined the track record of the White House Office of Information and Regulatory Affairs (OIRA), which plays a key role in coordinating regulation Administration-wide, and awarded a **Final Grade of C-**, the lowest grade in the report.

"We'd hoped for more from the Obama Administration's first year on the regulatory front," said Member Scholar and co-author Amy Sinden, a professor of law at Temple University. "EPA's regulatory

work on climate change has been aggressive and right on point, applying the law just as it was written and for the purpose of protecting the public from this profound environmental threat. Similarly, FDA has stepped up its inspection and enforcement efforts, and started addressing some long-ignored food safety and drug safety issues. But on the flip side, OSHA continues to lag in its efforts to address hundreds of longstanding workplace hazards, CPSC has been slow out of the box on toy testing and toxic drywall, and NHTSA could have done more on fuel efficiency than it did.”

The 42-page report looks at each agency’s high and low points in the Administration’s first year.

CPSC: *Despite facing many challenges, CPSC appears committed to improving its enforcement record, and has taken important new steps to protect consumers from dangerous products. The agency did not respond well to the toxic drywall crisis and struggled in implementing a toy testing program. **Final Grade: C.***

EPA: *With leadership committed to the agency’s regulatory mission and increased resources, EPA tackled several important environmental issues this past year, including making progress on climate change regulations, ground level ozone, sulfur dioxide, lead air pollution monitoring, and Chesapeake Bay cleanup. EPA failed, however, to take regulatory action against perchlorate, atrazine, and mercury air pollution, and it has done nothing to improve its overall inspection and enforcement record. **Final Grade: B.***

FDA: *With leadership committed to the agency’s regulatory mission and increased resources, FDA significantly improved its overall inspection and enforcement record, and began addressing long-ignored food- and drug-safety issues. FDA has been too slow to address the threat to children’s health posed by bisphenol A (BPA), and much more must be done to protect the U.S. food supply. **Final Grade: B.***

NHTSA: *Despite many challenges, NHTSA made some progress on improving overall traffic safety and automobile fuel efficiency. Significantly though, much of this progress involved finalizing some pending rules from the Bush Administration, rather than from any new protective initiatives launched by the agency this past year. Also, NHTSA’s proposed corporate average fuel efficiency (CAFE) standards were not strong enough. **Final Grade: B-.***

OSHA: *Thanks to an improved budget, OSHA strengthened its inspection and enforcement record. The agency made important progress on developing a hazard communication (HazCom) rule and a diacetyl standard, but yet has to take action on literally hundreds of well-known workplace hazards. **Final Grade: C.***

The White House/OIRA: *Overall, the White House’s participation in the regulatory process has undermined the agencies’ recovery, with the Office of Information and Regulatory Affairs largely operating as a barrier to effective regulations. Although President Obama’s budget requests were an improvement over the Bush Administration’s, the budget requests, most notably for CPSC and NHTSA, were not large enough to reverse agencies’ chronic underfunded state. **Final Grade: C-.***

The report also grades the Administration's work on several cross-cutting regulatory matters, including Toxics (Final Grade: C), Children's Health and Safety (Final Grade: C), Clean Water (Final Grade: C), Clean Air (Final Grade: B), Climate Change (Final Grade: A), Transparency in the Regulatory System (Final Grade: C), Scientific Integrity (Final Grade: C), Budget Requests for the Protector Agencies (Final Grade: B).

"From a regulatory perspective, the biggest disappointment in the Administration's first year was the role of the Office of Information and Regulatory Affairs, led by Cass Sunstein," said Steinzor. "The Bush OIRA was a barrier to effective regulation, interfering with agency decisions in ways that went far beyond OIRA's expertise. The Bush OIRA also served as an enforcer of industry's interests, a conduit for its wishes – a completely inappropriate role.

"We'd hoped for a dramatic reversal, and so far, we're not seeing it," Steinzor continued. "Just in the past several months, OIRA has conducted a series of meetings with industry on a prospective regulation dealing with coal ash. OIRA's role there usurps EPA's authority, and serves no apparent interest other than giving industry a backdoor way to oppose regulations it expects it won't like. OIRA should be focused on making regulations effective, and making sure regulatory agencies have the resources and information they need. We remain hopeful, but OIRA has a long way to go."

The report is available online at www.progressivereform.org/articles/regreportcard2010.pdf.

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