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**Federal Budget**

**Tax Cut Fever: What the Budget Future May Hold**

With the shake-up in the Administration's economic team, the recent rise in the unemployment rate to 6% (the highest rate in eight years), and absolutely no evidence that the massive Bush tax cut has done anything but send the federal budget on a rapid spiral into deficit, a reasonable person might think that it was time for the Administration to reevaluate the idea that tax cuts are the solution to everything. The President's economic stimulus plan, currently in the design phase, however, is expected to consist of tax cuts aimed at corporations and individuals in the higher tax brackets.

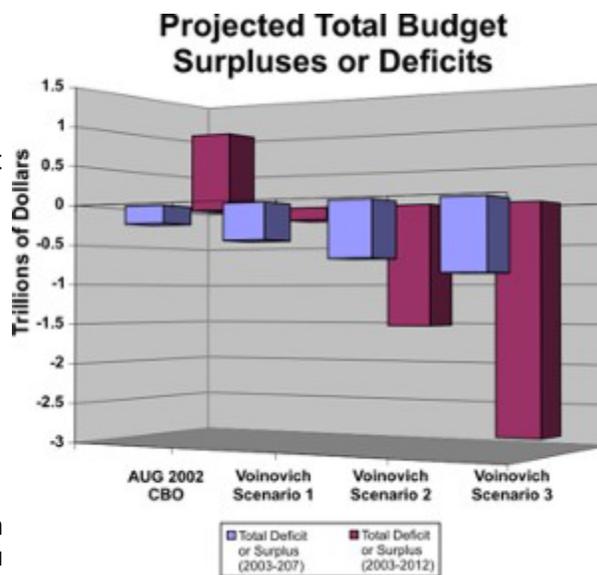
How will the country pay for the additional revenue loss, now estimated at \$300 billion over the next decade? While the Wall Street Journal reported today that savings in the Medicare program are being sought to help pay for the tax cuts, looking at the plans for cuts in the FY 2003 budget (\$9 billion less in domestic spending than in 2002) is also instructive. Grover Norquist, President of Americans for Tax

Reform, has [called for](#) cutting government in half over the next twenty-five years. Given the rate at which this Administration is passing tax cuts, it may take even less time.

This tax cut push comes in spite of the threat of war and strong public demand for a number of spending items, including broader “homeland security” measures, resources for education and for implementing the President’s own “Leave No Child Behind” education plan, a prescription drug benefit that would benefit all seniors, insuring the solvency of Social Security and Medicaid, health care for the uninsured, and the extension of unemployment benefits, which for many people will expire three days after Christmas, to name just a few.

States, too, are making increasing demands for some federal help, since overall they are in the worst financial shape since WW II, with budget shortfalls totaling \$67 billion. Part of the reason for the state budget catastrophe has been laid quite directly at the feet of federal budget decisions. For example, the end of the federal estate tax credit, a source of some \$6 billion in annual revenue to the states, was accelerated in the Bush tax cut to expire in 2004 (to make the total cost of the bill add up to less). Further, cuts in federal services have put more burdens on state and local entities. (For more on the state budget crisis, see [this Watcher article](#).)

Last week, Sen. George Voinovich (R-OH) released the Congressional Budget Office (CBO) report that [recalculates the deficit](#) based on making the Bush tax cuts, due to expire in 2010, permanent. Under one set of parameters, government spending would remain at the same percentage level of GDP over the next decade, i.e., there would be no increase for inflation, population growth, increased needs, etc. CBO found that the overall deficit would be \$1.5 trillion and, if Social Security revenue is excluded, \$4 trillion (see “Scenario 2” in the chart at the right). Given a slightly more reasonable condition where government would continue to grow at a rate of 8.5% (which is still low given the new demands for homeland security and defense) (“Scenario 3” in the chart to the right), CBO found that there would be a total deficit of \$2.87 trillion over the next decade, or a whopping \$5.4 trillion if you exclude Social Security. (The chart to the right also shows, in “Scenario 1,” the resulting deficit if the tax cut is extended and discretionary spending grows only at the rate of inflation. The [CBO's complete estimates are available online](#).)



Voinovich is urging passage of a “truth in accounting” budget proposal co-sponsored with Sen. Russell Feingold (D-WI), to extend budget enforcement mechanisms and require scoring of long-term interest costs. Last week Voinovich also said in an interview that, while he would probably vote for making the Bush tax cuts permanent (in spite of the revenue loss), he did have some reservations about making repeal of the estate tax (which is clearly targeted to only the wealthiest Americans) permanent, and he would oppose any new tax cuts unless they would have an immediate, stimulative effect on the economy.

The issues of tax cuts, the deficit, spending, and the economy are, of course, closely linked. The Administration and many members of the Republican Congress remain committed to tax cuts that benefit wealthy individuals and corporations -- their constituency -- and would like to portray those tax cuts as the solution to the economic downswing. However, many economists do not support that position. They argue that we actually need to increase spending and that any tax cuts must be temporary and carefully targeted to economic stimulus in order to get the economy rolling again. Once the economy is growing, the deficits will shrink. Temporary or one-time-only tax breaks focused on low- or middle-income Americans who will spend the savings (for instance, several legislators have called for some version of a temporary reduction in payroll taxes, which would give a break to poor working families), or short-term investment credits to encourage businesses to make investments immediately might help. Permanent tax cuts for the wealthy will continue to be ineffective in stimulating the economy and, in fact, will be harmful, since they reduce government revenue, needed, for instance, to provide some help to the states. Leaving the states in a position where they have to raise taxes and cut services will act against federal measures to stimulate the economy, likely canceling out federal efforts. For one example, the Washington Post [reported](#) the dilemma of New York City Mayor Bloomberg, who after raising state property taxes higher than ever before and cutting city services, still faces a \$4 billion budget shortfall, requiring a tax increase.

**Possible Items in the Administration's \$300 Billion Economic "Growth" Tax Cut Plan:**

- Acceleration of reductions in individual tax rates by advancing to 2003 the top percentage rate cuts scheduled for 2004; and/or advancing to 2004 the cuts scheduled for 2006.
- Reduction in taxes on corporate dividends either for companies or shareholders. (Fully eliminating corporate dividends would cost over \$493 billion over 10 years.)
- Increase depreciation rules for corporations.
- Expansion of IRA and 401(k) retirement plans
- Increase in Child Tax Credit.
- Make the Bush tax cuts that will expire in 2010 permanent (at a cost of \$4 trillion in the first decade after 2012)

Passage of new tax cuts with more revenue loss is one of the biggest threats we face—not because of an increase in the deficit, but because of the loss of federal, state and local government services that are important to low and middle income individuals and families. A tax cut by any other name is still a tax cut.

## Budget Schedule

The incoming Director of Budget and Appropriations Issues for Sen. Trent Lott (R-MS), G. William Hoagland, recently gave a briefing to states about the upcoming budget. Included in this piece are some points from that briefing and other reports, as well as a tentative schedule for completing work on the FY 2003 budget and beginning the FY 2004 budget work.

- There is expected to be tentative agreement on an Omnibus Appropriations bill including all of the remaining 11 appropriations bills for FY 2003 before the President's State of the Union speech in January. The total amount appropriated would be \$7.5 billion more than last year's spending level, but \$9.4 billion below the current Senate level. A good part of that additional \$7.5 billion will likely go to First Responders, bioterrorism, and education. According to some estimates, that means that the resources for domestic spending will need to be cut by \$9 billion below the FY 2002 level. Debate on the omnibus bill will start on the Senate floor (usually spending bills originate in the House), and then go to House-Senate Conference.
- The 2004 budget resolution will probably include two reconciliation bills: one an economic "stimulus" plan offered by early April, and another for Medicare give-backs, a prescription drug plan, TANF reauthorization, and possibly authorization for ANWAR drilling, to be offered by early May. See the box above for possible provisions in the stimulus bill.
- A supplemental appropriations bill may be acted on in early spring, especially if there is a war. This bill might include funding to states to implement the new election reform law. Unsurprisingly, especially if all these tax cuts pass, there also may be an effort to increase the national debt ceiling in early spring.

While not the stated legislative purpose, in this case, the reconciliation bills are a useful way to avoid the 60-vote requirement in the Senate, and allow passage (especially of the new tax cuts in the stimulus bill) by 51 votes. The reconciliation bills hinge on whether a budget resolution can be agreed upon.

Following is the schedule given by Hoagland for the FY 2004 budget:

- December 3: Decisions on all agency requests
- December 6: Agencies submit appeals
- December 20: All agreements finalized on the President's budget submission to Congress
- February 8: Presentation of the President's budget to Congress
- March 14: Completion of FY 2004 Budget Resolution

## It's the States' Turn

In the last year or so, we've seen some relatively large federal assistance provided to a few fairly large private industries. Last year, it was the \$15 billion grant and loan package to "bailout" the airline industry after the September 11 attacks. At the time, it was seen as the prudent thing to do, since the federal government had grounded all flights for days until it could return some sense of security to the skies. [White House Press Secretary Ari Fleischer explained](#) that the assistance was necessary because "a safe, viable and effective commercial air travel system is important to America's economy and to our way of life."

More recently, the Terrorism Insurance Risk Act, which the President signed on November 26, guarantees that in the event of another terrorist attack, the federal government will pay 80 percent, and in some cases, 90 percent, of the total insurance payments. Advocates for this law insisted it was the only way to get the nation's construction projects up to speed again, and, as the [President explained at the bill signing](#), "The nation's hard hats will get back to work, being able to put food on the table for their families." As in the case of the debate about the airline industry's assistance package, the bill's supporters argued that this federally-funded aid to private insurance companies was necessary for the health and well-being of the nation's economy.

In both cases, the arguments for federal assistance to private industries were grounded in a sense of a shared burden and the need for a shared responsibility for the recovery. These arguments were even strong enough to counter charges that federal assistance shouldn't go to private companies who were struggling even before the September 11 tragedy occurred. Instead, these costly pieces of legislation were enacted with the understanding that an investment in private airlines now, is better than confronting the shutdown of the nation's major air carriers and the likely detrimental impact on the economy.

### What about the States?

Curiously, however, the same argument – federal funding to specific entities to protect the national economy – has not been applied so aggressively in assessing the various proposals of an emergency federal aid package to financially strapped states. Though state and local government spending comprises about 9 percent of the nation's GDP and states continue to suffer from shrunken tax revenue, as a result of the economy's troubles, there has been no legislation to provide assistance to this important component of the national economy.

The parallels between the situation of the unfunded states and that of the bailed-out airlines and insurance companies are striking. Like both the airlines and the insurers, the states are also contending with the added costs of their new responsibilities in providing for the homeland security needs imposed by the post-September 11 environment. Like the airlines concerned about the impact on their revenues of a

public now cautious about flying, states have also been struggling to manage their budgets in the face of reduced tax revenues. Specifically, according to the recently released [National Governors Association's \(NGA\) Fiscal Survey of the States](#), states collected 9.7 percent less in sales, personal income and corporate income tax revenue in FY2002 than they had expected. When combined with a 13.2 percent increase in state Medicaid spending, states have been left with little choice but to cut spending wherever possible. One of the first steps in this effort was the indefinite postponement of capital improvement projects, just as many companies had done in response to an insurance industry unwilling to insure large office buildings. States have now had to turn to more drastic measures, including across-the-board cuts, layoffs of state employees, and a heavy reliance on their "rainy day" funds.

While the federal government, state government, and private industry all suffer together from the slowed economy, the federal government has placed a unique burden on the states, not once, but twice in the last 18 months. One example of this is the fallout from the repeal of the estate tax. A too-little discussed element of the \$1.35 trillion tax cut the President secured in June 2001 is how the federal government funded the costly estate tax repeal included in the overall tax cut: they took the money from the states. Recognizing that they couldn't afford to let the states phase-out the estate tax at the same 10-year pace that the federal government would enjoy, Congress and the President scheduled an accelerated 5-year phase-out of the states' share of the federal estate tax. In 2005, while the estate tax is still providing needed revenue for the federal government, states will lose their so-called "pick-up" tax and the more than \$6 billion in revenue it provides annually. (For more on the costs to the states of federal estate tax repeal, see the Center on Budget and Policy Priorities, which has [helped to educate states](#) about what to do to retain this revenue.) The economic stimulus package enacted in March 2002, which reduced corporate income taxes for the next 3 years, placed a similar burden on state treasuries, most of which tie their own corporate income tax to the federal rate, while doing little to help the national economy, according to many economists.

With a gaping \$67 billion cumulative state budget shortfall that must be bridged by the end of the states' fiscal year, June 30, 2003, and with a greater demand on the services states provide due to higher unemployment rates and an end to extended unemployment benefits, it seems logical that some sort of "bail out" or "loan guarantee" is in order. The need for assistance is even more pressing because, unlike the federal government, all but one state (Vermont) must balance their budgets every year. Under current conditions, this will likely mean further program cuts and tax increases (according to the NGA report, 26 states made across-the-board funding cuts and 24 states enacted tax and/or fee increases this year) – a deadweight for the nation's economic recovery efforts.

### **Revenue Sharing, Anyone?**

As economists, including the [Economic Policy Institute's \(EPI\)](#) Max Sawicky, and state finances experts, such as Ambassador Felix Rohatyn and former New York Comptroller Carl McCall, have been arguing for more than a year, what is needed to prevent this sort of wrench in the national economy is a sizeable federally-funded aid package to state treasuries. In this [October 2001 piece](#), Sawicky pointed out that, "balanced budget requirements and other tax and expenditure limitations reduce economic growth and employment at a time when the nation can ill-afford such losses" and recommended \$20-30 billion for states over a 12-month period. Rohatyn and McCall and others, calling state budget cuts a "land mine squarely in the path of economic recovery," went farther and [issued a recommendation in December 2001](#) for a one-year \$100 billion "program of federal revenue sharing to counter the potentially damaging impacts on the economy of the budget crisis ... facing states and localities ... [to] maintain funding for needed capital projects and essential services such as education, health care and public safety." Though the idea may sound infeasible, the country did have a "general revenue sharing" program in place from 1972 to 1986 – when the program began, more than \$20 billion (in 1996 dollars) was granted. This relatively unstructured grant assistance to states and localities was touted as a way of reducing the direct involvement of the federal government in state programs, but a survey of state and local finances [conducted by EPI in 1996](#) also found that this form of "unrestricted federal aid stimulates state and local public investment."

For those averse to a return to federal revenue sharing, Sawicky also suggested providing the federal aid in the form of increased funding for existing programs, such as Medicaid, at the state level. This idea was taken up in the House and Senate this fall, in the form of an increase in the federal matching rate for the

states' Medicaid programs. With the House bill offering \$5 billion and the Senate bill offering a more stimulative \$9 billion, including additional funding for some social services block grants, and strong opposition from the President, no compromise was reached. Governors and state legislators met on Friday to discuss their shared troubles and to plan a renewed push for federal assistance when Congress returns to Washington in January. Arkansas Governor, Mike Huckabee summed up their message, telling the [Washington Post on Friday](#), "when we hear that the government is going to bail out the airlines, to heck with the airlines. We're providing the services that you [the federal government] are supposed to be providing. Help us out."

### **Something Has to be Done**

Thus the states remain in their current predicament. The nation's unemployment rate topped 6 percent for November, a notable jump from October's 5.7 percent rate – and the highest rate in the last 8 years. States are grappling with \$12.8 billion in cuts from FY 2002 and an additional \$8.3 billion in cuts thus far in FY 2003. At this point, the President and Congress need to recognize that penalizing states for cutting taxes in better times (as the federal government, itself, did), while also placing some of the burden of costly federal tax cuts, as well as new homeland security needs on the states will only work against their efforts to stimulate the national economy. When Congress returns in January, it is expected to begin working on an economic stimulus package. Let's hope that this time the stimulus will not work against itself: if corporations are going to receive federal income tax breaks again, the states shouldn't be left searching for ways to make up the lost revenue. Congress should see the states and their current budget crises as a source of quick turn-around on spending for services, workers and domestic security.

## **GAO Reports on Job Prospects of Former TANF Recipients with Impairments**

A recent study conducted by the General Accounting Office (GAO) examined the job prospects of people leaving the Temporary Assistance for Needy Families (TANF) program. Specifically, the study, shows that recipients of TANF "who had impairments were found to be half as likely to exit TANF as recipients without impairments..." Similar rates were seen among TANF recipients caring for children with impairments as those caring for children without impairments, even when factors such as marital status and age were taken into account. According to the GAO report, former TANF recipients with impairments are "one-third as likely as people without impairments to be employed," with 40 percent of such former TANF recipients reporting Supplemental Security Income (SSI) assistance.

The GAO report notes that these and other data point to the need for states to ensure that there are other forms of assistance to offer those with impairments or those caring for children with impairments, in order for them to be able to meet the work-based TANF requirements.

The [report is available online](#).

## **Information Policy**

### **Data Quality Invoked in Information Collection**

In a [letter](#) to the [National Highway Traffic Safety Administration \(NHTSA\)](#) dated November 6, 2002, the [Center for Regulatory Effectiveness](#) (CRE) raised data quality concerns with NHTSA's recent Proposed Collection of Information.

It does not appear to be an official request for correction under the data quality guidelines. The letter focuses on requirements that the CRE claims information collection requests (ICR) must meet under the Paperwork Reduction Act and the Data Quality Act. The proposed information collection is part of NHTSA's efforts to implement the early warning reporting provisions of the Transportation Recall

Enhancement, Accountability, and Documentation (TREAD) Act. Under this rule, motor vehicle and motor vehicle equipment manufacturers will be required to report information and to submit documents about customer satisfaction campaigns and other activities and events that may assist NHTSA to promptly identify defects related to motor vehicle safety.

The CRE argues that NHTSA must have a plan for the use of the information and that the plan must meet data quality standards. Among the several recommendations the CRE concludes the letter with is:

“No Control Number for Early Warning data should be granted until NHTSA provides and seeks public comment on the NHTSA plan for analyzing the Early Warning data that is required by the Paperwork Reduction Act, Federal Data Quality Act and DOT Data Quality guidelines.”

If granted, this additional process being sought will delay NHTSA's enforcement of the early warning system. Possibly more importantly, however, would be the significant precedent under the new data quality guidelines that ICRs must engage in additional procedures. This would result in a huge loss of government efficiency and provide the regulated community an additional opportunity to influence the regulatory outcome.

The CRE also claims that the Office of Management and Budget (OMB) has publicly committed to not approve any ICR that is not in compliance with OMB and Data Quality Guidelines. This is an overstatement. In a [June 10, 2002, memo](#) to the President's Management Council, [Office of Information and Regulatory Affairs](#) (OIRA) administrator John Graham noted that concern for information quality should be integrated into all steps of developing information, including collection. The memo went on to acknowledge that, “OMB will approve only those information collections that are likely to obtain data that will comply with the OMB and agency information quality guidelines.” The memo focused the expectation for complying with data quality guidelines on the information to be collected and not on the ICR. The memo also only requires the likelihood that the obtained data will comply with data quality guidelines and not an additional formal process to guarantee compliance before the data is collected.

For a more indepth look at the requirements of the Data Quality Guidelines, see [this OMB Watch background piece](#).

## **Data Quality's First Test**

A [request for correction of information](#) under the new Data Quality guidelines that was filed on November 25, 2002, with the [Environmental Protection Agency](#) (EPA) by the [Center for Regulatory Effectiveness](#) (CRE), Kansas Corn Growers Association, and the Triazine Network could cripple EPA's ability to address endocrine disruptors.

The request was focused on endocrine effects from the herbicide atozine reported in EPA's Environmental Risk Assessment -- "Registration Eligibility Science Chapter for Atozine: Environmental Fate and Effects Chapter (April 22, 2002)." The argument presented in the request states that while EPA is a member of an interagency panel that has stated that data quality requires proper validation of tests to ensure reliability, protocols for validating endocrine studies are still in the process of being developed. Without these validation protocols the tests cannot be considered reliable. Therefore CRE and the other petitioners request that the report be changed from stating that atozine causes endocrine effects in various organisms including frogs to "there is no reliable evidence that atozine causes endocrine effects in the environment." The request goes on to suggest that the report also state that, "there can be no reliable accurate or useful information regarding atozine's endocrine effects until and unless there are test methods for those effects that have been properly validated."

While the request focuses on one particular set of tests, the likely goal is not just to discredit or remove this one study but to establish the argument that without validation protocols no endocrine study, for

atrazine or another suspected endocrine disruptor can be considered reliable – no matter how peer reviewed or how many times the study has been reproduced. This would eliminate EPA’s ability to protect the public and the environment from any chemicals that act as endocrine disruptors until the agency could finalize protocols to validate related studies.

The situation described by the request (existing studies and no current validation protocols) should be covered in EPA's guidelines for risk assessment studies. EPA specifically adapted the risk assessment principles of the Safe Drinking Water Act (SDWA) to require the use of best available methods and data with the understanding that “best available” be interpreted as best available at the time the study was done. Since the validation protocols are not finalized and therefore “not available” the EPA should have the ability to use the study.

EPA has 90 days to respond to the petitioners. Depending on the decision and the petitioners’ satisfaction, the petitioners have the option to request reconsideration. This will be an important test case for the new Data Quality Act.

For more indepth information on the requirements of the Data Quality Guidelines, see this [OMB Watch backgrounder piece](#).

## **Nonprofit Issues**

### **FEC Approves New Rule on Coordinated Communications**

On December 5 the Federal Election Commission (FEC) approved [new regulations](#) that define when communications with a federal candidate, a campaign, party or their agent, may turn an otherwise independent expenditure into a prohibited in-kind campaign contribution. The rule implements the Bipartisan Campaign Reform Act of 2002, which required the FEC to write tougher regulations in this area. The regulations will take effect 30 days after publication in the Federal Register. The new rules use a three-part test to determine when an expense is considered “coordinated”. It must be for a public communication paid for by someone other than a candidate or campaign and meet specific standards relating to both content and conduct between the candidate and group or person paying for it.

The content standard is met if the communication is:

- an [“electioneering communication”](#), or
- redistributes or republishes campaign material paid for by a candidate, campaign or their agent, or
- expressly advocates for election or defeat of a federal candidate, or
- is made within 120 days of a federal election, refers to a federal candidate and is targeted to the area where he or she will appear on the ballot.

The conduct standard is met, whether or not there is a formal agreement or formal collaboration, for communications:

- that are made at the request or suggestion of a candidate, campaign, party or their agents, or
- are the result of material involvement of a candidate or campaign in decisions on the content, intended audience, distribution plans, timing or media used, or

- that are created or distributed after substantial discussion about the candidate or party's plans, projects, activities or needs, or
- that use a vendor that has provided expert services to the candidate or campaign and conveys information about the candidate's plans, or
- is paid for or uses information from a former employee or consultant of a candidate who conveys material information about the plans, activities or needs of the campaign.

There is an exception for republication of candidate campaign materials that are distributed by the campaign that prepared the materials, are part of a news story or editorial or are responses to inquiries about legislative or policy issues, and do not contain information about the campaign.

Since corporations, including nonprofits, are prohibited from making contributions to federal candidates, the new rules could impact groups that interact with public officials or community leaders that are also federal candidates and communicate with the public about issues that involve them. However, the exceptions should protect organizations involved in lobbying or get-out-the-vote and voter education activities. For more background see [OMB Watch comments](#) and [other comments](#) on the draft rules. [Transcripts of public hearings](#) are available on the FEC website.

## **NPAction Greeted By Positive Reception; State Advocacy Guides Added**

[NPAction](#), OMB Watch's new online resource for nonprofit advocacy, launched on November 22, 2002 in its pilot form. In the roughly two weeks since, the site has averaged roughly 1,300 unique visitors who have taken the time to explore the content offerings and features, and more importantly, to provide feedback on what's available. Recent additions to the site include [Poll results](#) and [topic discussion](#) around nonprofit attitudes regarding IRS restrictions on candidate endorsements by charities; and a set of [state advocacy guides](#) for nonprofits to help identify key government agencies, rules, regulations, and guidelines regarding their advocacy work. Over the next few months, the site will be refined in order to provide a more robust version for early 2003. Visit NPAction today, share your thoughts on our work, and help us to provide the best resources possible to assist your organization and partner groups in their policy participation.

## **Regulatory Matters**

### **Bush Administration Proposes to Gut Forest Protection Rule**

Two days before Thanksgiving the Bush administration quietly approved a proposal that would gut current forest protection regulations by removing requirements to protect forest wildlife and ecology, and by eliminating the requirement of an analysis that serves as the key mechanism for informing the public of the environmental impacts of forest management plans, among other de-regulatory changes to the rule.

These changes would likely result in an acceleration of logging in forests without requiring careful planning to protect wildlife and ecosystems – all with reduced opportunity for public oversight or input into the process. And as this [NY Times Editorial](#) points out, the only apparent beneficiaries of the changed rule would be the timber industry and those who would use the forests for commercial interests; interests that the Bush administration continually places above safeguarding the environment in its ongoing attack on environmental rules.

Several congressional Democrats denounced the proposed rule that was put out by the [U.S. Department of Agriculture's Forest Service](#) and published in the [Federal Register on December 6](#). In [a letter to Forest Service Chief Dale Bosworth](#), House and Senate Democrats such as Sens. Patrick Leahy (VT), Barbara Boxer (CA), and John Edwards (NC), and House Minority Leader Rep. Nancy Pelosi (CA), among others, criticized the proposed rule for failing to capture the intent of the statutory language of the [National Forest Management Act \(NFMA\)](#) of 1976. These and other environmentalists have asserted that the rule not only rolls back Clinton-era standards, but that it is even less protective than the rule put out by the Reagan administration in 1982.

Under the proposed rule, managers of each of the 155 forests -- covering 192 million acres in 44 states -- are given new authority to approve logging, drilling, or mining projects in their respective forests, even if those projects do not fit with the forests' specific plan for protecting its wildlife. The 15-year forest plans, required under the NFMA, include an environmental impact statement that is an assessment of the renewable resources in the forest and an analysis of the environmental and economic impacts of the plan. The proposed rule would allow forest plans to be adopted and revised without preparing an environmental impact statement. Failing to do so not only violates the NFMA, but also the [National Environmental Policy Act \(NEPA\)](#), which requires all branches of government to give proper consideration to the environment before undertaking any major federal action that significantly affects the environment. Agencies usually adhere to NEPA by carrying out an environmental impact statement, which is also the primary document that informs the public of potential impacts on the forest.

The [current rule](#) -- put out by the Clinton administration in 2000, and reviewed by an independent Committee of Scientists -- requires the Forest Service to protect sensitive species of forest wildlife and recognizes ecological sustainability as a priority for stewardship of forests. The new proposal -- which was not reviewed by the Committee of Scientists -- does not recognize ecological sustainability as a stand-alone priority; instead it equally values social and economic components, thereby placing as much importance on logging or recreational use as it does on sustaining the ecological or wildlife resources of the forest.

More specifically, this new proposal also eliminates the requirement to maintain a viable population of a native wildlife species, and rolls back the current rule even further by eliminating requirements for independent scientific assessments and science advisory panels, as pointed out in this [Wilderness Society fact sheet](#). This is ironic considering the current administration's push for "sound science" to inform regulations, and increased use of peer advisory boards.

Not only does this proposal weaken safeguards to protect the environment and wildlife and throw out the need for science, it also removes the requirement for citizen participation at the beginning of the process as well as eliminates the opportunity for the public to appeal a final Forest Service plan, a point also made by [The Wilderness Society](#). This omission again violates the NFMA.

Further de-emphasizing the importance of public participation, the rule specifically states that it will give greater weight to written comments than those that are "form letters, check-off lists, pre-printed postcards, petitions, or similar duplicative materials," many of which are used by environmental groups to allow members of the public that would not otherwise have the time or in-depth knowledge to write their own comments to do so using a pre-printed letter or postcard. This is another irony considering the [Washington Post report](#) that associate Forest Service chief Sally Collins said the rule was changed because "you shouldn't need to have a Ph.D. to understand this process" -- yet, with this rule, the Forest Service is not giving equal weight to comments from persons that do not have enough extensive knowledge of the issues to write substantive comments.

The Forest Service announced that it is proposing the new rule in response to a review conducted by the Office of the Secretary of the Forest Service under President Bush which found that the Clinton rules were far too costly and prescriptive, too detailed, and lacking clarity. USDA notes that a number of lawsuits were filed challenging the promulgation of the 2000 rule from both environmental and industry

groups. However, with the new proposal's violation of NFMA and NEPA, more lawsuits are sure to follow if this egregious attack on the environment becomes a final rule.

USDA will be accepting comments on the proposed rule for 90 days, and OMB Watch has set up an action alert to allow you to send comments straight from our website. [Click here](#) to submit comments to USDA opposing the rollback of this rule. Use the talking points to write your own letter, or check back as we will have a sample letter available soon.

This is not the first time that the administration has come out with a controversial policy move at a time when most of the public was busy with holiday plans and not as likely to follow the news. Last year it rolled back [a rule requiring contractor responsibility](#) during the Christmas break when Congress was out of session. This rule also comes less than a week after the administration sided with industry and [rolled back protections against air pollution](#) from coal fired power plants.

## **Right-to-Know**

### **Cheney Task Force Lawsuits: Courts Dismiss GAO Request, Delay White House Deadline**

On December 6, 2002, a federal appeals court issued a two-page order indefinitely delaying the December 9, 2002, deadline for the White House to produce documents on Vice President Cheney's energy task force. The order stated that the court will schedule a date for arguments on whether to step into the case and consider the administration's request to put a halt to producing documents and providing testimony.

The law suit brought by [Judicial Watch](#) and the [Sierra Club](#) has demanded that the task force reveal documents about its meetings with industry representatives and lobbyists in formulating an energy plan that calls for expanded oil and gas drilling on public land and easing regulatory barriers to building nuclear power plants. The groups allege that the administration improperly met with private energy industry officials and largely excluded environmental groups while forming the country's energy policy.

This represents a reversal of a very recent court ruling that the administration could not appeal the order to produce documents since the case had not been settled. [For more see this previous Watcher article.](#)

In a related case in which the [General Accounting Office](#) (GAO) -- the investigative arm of Congress -- sued Vice President Cheney for information about meetings held between Cheney's energy task force and industry representatives, Bush-appointed U.S. District Judge John Bates ruled in favor of Vice President Cheney and dismissed the GAO's suit, opining that "no court has ever before granted what the comptroller general [of GAO] seeks," as reported in this [Washington Post article](#).