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Updates for Your Information

Happy New Year from the Watcher!

The Watcher wishes you a happy and healthy new year. Because of the upcoming New Year holiday, the Watcher will return on January 13, 2003.

You'd Better Watch Out...

The December 19 Washington Post reported that the District of Columbia police plan on deploying temporary surveillance camera during two large demonstrations in January. The cameras will be in several locations and along the march route for an anti-war protest and around the US Supreme Court for an antiabortion demonstration. These are in addition to 14 permanent cameras that DC police already

operate in the downtown area, as well as their helicopter mounted camera which is ubiquitous at demonstrations.

Meanwhile, Denver's police department has been embarrassed by revelations that it has been secretly keeping tabs on citizens since the 50's, labeling members of such organizations as the American Friends Service Committee as criminal extremists. This information, which until recently was stored on file cards, was recently computerized and subsequently leaked to the ACLU, leading to a rush of Denver activists learning that they've been watched. The New York Times has reported that the NYPD, along with 18 other local law enforcement agencies across the country have purchased software similar to that used in Denver, and that similar software specific to gang related activity is used in 15 states.

Federal Budget

Economic Stimulus – First, Do No Harm

An economic stimulus plan will be on the table early in the next Congress. Following is the tentative schedule. Given the sudden change in Senate leadership with Sen. Trent Lott's (R-MS) resignation as Senate Majority Leader, there is a great deal of uncertainty about how the budget process will proceed next year, including issues of timing, number of reconciliation bills, and content. The next Watcher may contain a very different timetable.

January: Finish 2003 appropriations through omnibus bill(s) and address an extension of unemployment compensation benefits.

February: Complete five-year budget resolution for 2004 including instructions for two "reconciliation bills," which are intended to move legislation to implement tax and entitlement ideas in the budget resolution.

March to Mid-April: Complete work on the first reconciliation bill, which will include an economic "growth" package – that is, tax cuts.

May/June: Complete work on the second reconciliation bill (entitlements including TANF and prescription drug coverage)

Reconciliation bills in the Senate are considered by the Finance Committee based on instructions of the Budget Committee. The Budget Committee has the final authority. Bills under the reconciliation process can be passed by a simple majority (51 Senators voting in favor) and cannot be permanent measures without having 60 Senate votes.

Why do we need an economic stimulus plan?

The recession has caused rising unemployment, now at 6%, fewer available jobs, wage and income losses for those who are employed, and an increased loss of confidence in the economy. Low-income workers are hardest hit and the recession is worsening our growing income and resource inequality. The Economic Policy Institute's [slide show "The Job Crisis and Stimulus Policy"](#) is a good overview.

What should an economic stimulus plan accomplish?

It should create more consumer demand, i.e., more "customers" for goods or more government services in an economy that, because of the recession, currently has more capacity than can be used. The idea is to quickly generate more jobs and economic growth.

What are good criteria for an effective economic stimulus plan?

1. It needs to take effect immediately and have an impact over the next year or year and a half.
2. Any tax cuts or spending measures in the stimulus package must be temporary so that our long-term fiscal condition is not harmed. We need a short-term economic stimulus not long-term (and hard to correct) fiscal harm.
3. Since the recession primarily hurts low- and middle-income Americans, the stimulus package should be fair and should focus benefits on ordinary families.
4. Since government spending is a useful part of a stimulus plan, we should direct it towards important priorities and needs.

These guidelines are similar to those laid out in October 2001, after the September attacks, when the Senate and House Budget Committee Chairs and Ranking Members, in an effort to underscore the importance of enacting an economic stimulus package, issued a joint statement of principles to guide the construction of such a package. In it, Congressional budget leaders stated that "long-term fiscal discipline is essential to sustained economic growth" and that any stimulus package "should restore consumer and business confidence, increase employment and investment and help those most vulnerable in an economic downturn." Moreover, they all agreed that the effects of a stimulus package should be felt within 6 months of passage and that all components should expire within one year, if at all possible. Finally, they declared that the package should be directed at individuals most likely to spend the additional income and businesses most likely to increase investment and employment. This was a bipartisan agreement, focused on creating a stimulus package that would be effective.

Following is a comparison of the Administration's "Growth" Plan (which is still being designed), the [Economic Policy Institute's design for a "Stimulus" Plan](#), and [Sen. Max Baucus' \(D-MT\) proposal](#). It contrasts two very different conceptions of what needs to be done. While there may be different visions of the specifics that ought to be contained in an economic stimulus plan, the EPI stimulus plan is a good example to compare with the Administration's growth plan. Please also refer to the [OMB Watch Economic Policy page](#) for more about the economic stimulus package debate last fall and winter.

Contrast of Administration's Economic "Growth" Plan, EPI Economic "Stimulus" Plan, and Sen. Baucus' Stimulus Proposal

	Description	Criteria	Provisions	Cost
Bush "Growth" Plan	The "Economic 'Growth' Plan" is the way the Administration chooses to characterize its ten-year effort. As the name reflects, it is not designed to provide an immediate economic stimulus, since it covers ten years and it primarily will benefit wealthier families and individuals and corporations through tax cuts. The provisions, like those in the Bush tax cut, end after ten years with the intention that they will be renewed, since it will be very hard to "raise" taxes by letting the cuts expire. Thus, this plan will reduce revenue and increase budget deficits for decades. The	Benefit the President's wealthy constituencies and line up with conservative "supply-side" economics theories, which rely on a trickle-down effect on low- and middle-income Americans, who are having the most difficult time in this recession and are in the worst position to wait.	<ul style="list-style-type: none"> • Eliminating the tax on corporate dividends paid by individuals. • Accelerating the reduction of the higher income tax rate from 2004 (as provided in the prior Bush tax cut bill) to 2003. Accelerating the reduction of the tax rate scheduled for 2006 in the Bush tax cut bill to 2004. • Cuts in pension taxes. 	\$300 billion over ten years . Not a short-term, temporary stimulus, but long-term; difficult to end in ten years, and sure to worsen the fiscal crises in the states and increase the long-term deficit already predicted for the federal budget. This cost estimate is understated, since it is certain that various gimmicks and probably "dynamic scoring" (guessing at potential economic benefits to offset the actual costs of the legislation) will be used to disguise the real cost.

	Administration's plan does not meet any of the criteria identified above for an economic stimulus plan.		<ul style="list-style-type: none"> • Accelerating the child care tax credit. • "Small business" tax cuts, like business expensing breaks, investment credits, or even permanent repeal of the estate tax. 	
Economic Policy Institute Economic Stimulus Plan	Contains provisions that will act as an immediate economic stimulus, and that follow all the criteria above for an effective plan. This is an effort to increase the "demand" side of the economy that will act as a "jump start" to increase economic growth and jobs in 2003.	Designed to provide immediate effects that will help over the next year or year and a half, which are temporary. It is intended as an immediate stimulus that will not cause long-term fiscal damage. It is fair and benefits go to important priorities of ordinary Americans.	<ul style="list-style-type: none"> • \$50 billion in one-time grants to states to preserve health, education, law enforcement, and other services which are daily in the newspapers as being cut or under threat of cuts. • \$25 billion for school renovation and repair. • \$25 billion to extend unemployment compensation benefits and expand eligibility to part-time and low-income workers. • \$10 billion in other measures. • A one-time rebate of 3.5% (the amount of payroll tax paid by the worker) of the first \$15,000 of wages, which would be paid for by general revenue (costing \$65 billion) and would benefit 149 million workers. This would amount to \$525 for an individual or \$1050 for two workers. 	\$175 billion in immediate outlays. No hidden costs.
Sen. Max Baucus (D-MT)	adhere closely to the EPI stimulus guidelines and is aimed at providing an	Baucus has crafted a plan that he says will "help the economy in both the short run and	<ul style="list-style-type: none"> • \$75 billion in one-time "General Revenue Sharing" 	The Baucus plan would cost approximately \$160 billion in FY 2003. Baucus emphasizes his

<u>Stimulus Package</u>	<p>aimed at providing an “immediate, effective and responsible economic stimulus package in order to strengthen the economy and reduce unemployment.”</p>	<p>both the short-run and the long-run” by providing “significant economic stimulus in the short-run while increasing fiscal responsibility in the long-run.” One element of the Baucus plan is the three-year extension of key Senate budget rules that currently expire April 15. These budget rules require a “supermajority,” or 60-votes, to pass legislation that would increase budget deficits in future years. Baucus argues that preventing long-term deficits also boosts the economy by keeping current long-term interest rates low, thereby encouraging consumer and business spending today.</p>	<p>grants to the states, with no restrictions on how the states spend this money.</p> <ul style="list-style-type: none"> ● \$17 billion to extend, through June 30, 2003, unemployment insurance benefits to those whose benefits have expired. ● \$45 billion to eliminate income tax on the first \$3,000 of taxable income – low-income individuals will be eligible for a rebate equal to 10 percent of the first \$3,000 in earnings. ● \$4 billion in highway construction funds to be distributed to the states for FY 2003. ● \$3 billion for a tax credit of up to 50 percent towards the employer cost of health insurance premiums. ● \$2 billion for small business deductions for 2003 investments in equipment. ● \$14 billion to extend business bonus depreciation through September 10, 2004. 	<p>Baucus emphasizes his plan’s strong long-term fiscal discipline, as evidenced by the smaller 10-year cost of the stimulus proposal – only \$135 billion.</p>
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The Administration has chosen to disguise more tax cuts for the wealthy and corporations as a “growth” plan for the economy. Fixing the economy, on the other hand, requires a short and fair plan that is big enough to work, but that doesn’t worsen our long-term fiscal situation. It should be directed where the needs are – to protect ordinary citizens from cuts made by desperate states to fix budget shortfalls, the

unemployed, and assist low- and middle-income workers. We need a short-term stimulus, not long-term fiscal harm.

It is vitally important that we all work to oppose cuts in revenue that will translate into cuts in the services we care about, whether that is funding for the environment, the arts, low-income assistance, education, nutrition, housing, etc. -- all are under threat. A coalition is currently forming around this issue. To join, contact Adam Luna at Campaign for America's Future, luna@ourfuture.org. More information should be up on the Campaign for America's future website in the near future.

Information Policy

Bush Signs E-Government Bill

President Bush signed legislation on December 17 that pushes the federal government to provide greater Internet access to information and services, authorizing \$345 million over the next four years for an e-government fund.

The bill, [spearheaded by Sen. Joseph Lieberman](#) (D-CT), marks the first comprehensive effort aimed directly at dealing with electronic information, covering a wide range of issues from information security and disaster preparedness to the digital divide and government employee training to information management and dissemination. [Click here](#) for a complete summary.

Of particular interest, the bill requires the Office of Management and Budget (OMB) to designate up to five pilot projects to "integrate data elements." At least one of these projects must eliminate duplicative data collection and integrate databases maintained by multiple agencies to facilitate public access -- something OMB Watch has long advocated.

The administration, which is responsible for implementation, must be vigilant if the [E-Government Act](#) is to be successful. The legislation is a positive step, but only a first step, which could yield very little without presidential commitment. Days after the bill's signing, the General Accounting Office [released a report](#) questioning the administration's implementation of its own e-government plan, which includes 24 initiatives selected by an OMB task force. "Especially now that the E-Government Act has passed, I hope that OMB will evaluate its programs more carefully, and consult closely with Congress, to ensure that its initiatives realize e-government's true potential," Lieberman responded in [a press release announcing the report](#).

Secrecy Sought by Government in Campaign Finance Reform Case

A special three-judge district court, which heard arguments earlier this month, is expected to rule sometime in January on the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA). The court ordered that all documents in this controversial case be made public, unless there were specific objections. Since then, the court has heard from more than two-dozen organizations and individuals asking that their information be kept secret. Among those groups objecting to disclosure have been units of the Democratic and Republican parties, the National Rifle Association, and the National Right to Life Committee. The most recent to ask that the information be kept secret is the federal government.

On December 16, the [Federal Election Commission \(FEC\)](#) and the [Justice Department](#) filed a joint motion opposing blanket disclosure of documents involved in the case. The government's position appeared to differ from the stance taken by the congressional sponsors of the reform law, who have generally argued for broad disclosure of information involved in the litigation.

Supporters of the reform law have pursued a legal strategy based on building an evidentiary record of corruption caused by the current campaign finance system. While some examples have previously been made public in news reports, much of the other evidence of corruption remains secret.

The FEC and the Justice Department argued that they "oppose the wholesale unsealing of the record" because such a move would upset its relationship with "insiders" in the political community, who have provided evidence of the need for the new law, based on the understanding that their identities would not be revealed.

Once the court rules on the constitutionality of BCRA an immediate appeal to the Supreme Court is anticipated.

Data Quality Challenge on Barium

On October 29 the Chemical Products Corporation submitted a data quality challenge to the [Environmental Protection Agency \(EPA\)](#) on information about barium in the agency's [Integrated Risk Information System \(IRIS\)](#) a key health effects database.

The [Chemical Products Corporation](#) has produced barium chemicals for nearly 70 years. The petition questions the objectivity and reproducibility of the oral reference dose for barium that EPA has used in setting a strict hazardous waste standard.

The company claims that while the IRIS information is supposed to represent the EPA's consensus position, the barium data differs from conclusions on barium previously published by [EPA's Office of Prevention, Pesticides and Toxic Substances \(OPPTS\)](#). Since the two offices come to different conclusions based on the same study, the company claims the IRIS information cannot represent a consensus among EPA offices.

Chemical Products Corp. asked EPA to withdraw from IRIS the oral reference dose for barium and compounds and replace it with an oral reference dose that has been peer reviewed by Toxicology Excellence in Risk Assessment, a nonprofit corporation located in Cincinnati, Ohio. The requested oral reference dose would be much larger, allowing for more barium in waste before it would be subject to regulations under the Resources Conservation and Recovery Act.

Under EPA's data quality guidelines the agency has a target deadline of 90 days to respond to the challenge. If EPA rejects the petition, the company would then have 90 days to decide if it would appeal that decision.

GAO Study on Electronic Government

On November 22, the [Government Accounting Office \(GAO\)](#) published a report entitled "[Electronic Government: Selection and Implementation of the Office of Management and Budget's 24 Initiatives.](#)" Expanding electronic government (e-government), using technology, particularly the Internet, to enhance the public's access to government information and services, is a key element of the President's Management Agenda to reform the federal government. The report reviews the completeness of information used by the [Office of Management and Budget's \(OMB\)](#) task force to choose and oversee these initiatives.

OMB's e-government task force developed abbreviated business cases on which to base its selection of initiatives. GAO compared the content of these business cases with best practices and found that many were missing elements. In particular, fewer than half addressed collaboration and customer focus, despite

the President's stated goal to "champion citizen-centered electronic government that will result in a major improvement in the federal government's value to the citizen." The GAO analysis also revealed that OMB did not have all the information needed to fully monitor the progress and development of the initiatives.

The GAO report recommends that the OMB Director should ensure that the e-government initiatives focus on customers by soliciting input from the public and conducting user needs assessments. The report also recommends that OMB work with partner agencies to develop and document effective collaboration strategies, and provide OMB with adequate information to monitor the cost, schedule, and performance of the 24 e-government initiatives.

Nonprofit Issues

Faith-Based Executive Order and Proposed Rules Open Door to Religious Discrimination

After two years of trying and failing to win congressional approval of its plan to increase the number of faith-based organizations receiving government grants for social services programs, the Bush Administration took matters into its own hands and implemented several of the most controversial provisions in [Executive Order: Equal Protection of the Laws for Faith-based and Community Organizations](#). Another [Executive Order](#) creates faith-based centers in the Department of Agriculture and Agency for International Development, similar to those established (also by executive order) in five other cabinet agencies in January 2001. It also requires religious organizations to be eligible for federal aid when they are damaged in a disaster. Two agencies announced new guidance for grantees on the same day.

Bush announced the changes at a December 12 White House sponsored conference on federal assistance to faith-based and community groups held in Philadelphia. The orders, which allow federal agencies to award grants or contracts to religious organizations that discriminate in hiring on the basis of religion, and to provide services in facilities that display religious icons and art, also specifies that a religious organization can maintain its structure and pursue its religious mission, "provided that it does not use direct Federal financial assistance to support any inherently religious activities, such as worship, religious instruction or proselytization." Agencies are required to review their existing policies and regulations for consistency with the orders, including data collection on participation by faith and community based organizations, and report to the White House within 90 days on actions they propose to take.

Protection for Program Beneficiaries?

Also on December 12, the Department of Health and Human Services announced proposed regulations for the [program and programs funded under the Community Services Block Grant \(CSBG\)](#) which provide more detailed guidance on implementing the Executive Order. Although federally funded social services must be offered at a separate time and location from religious instruction or worship activities, invitations to participate in religious activities may be extended in the course of providing services, if the religious organization "is careful to reassure program beneficiaries that they will receive help even if they do not participate in these activities, and that their decision will have no bearing on the services they receive," and participation in religious activities is "voluntary." The proposed regulations only apply in cases of direct federal assistance, where the sponsoring organization has received a grant or contract. However, in cases of indirect assistance, where program beneficiaries redeem vouchers, certificates, coupon or a "similar funding mechanism" provided under a program, the intent is to give individuals a choice of providers. In these cases, there is no restriction on mixing social services with inherently religious activities. Comments are due February 18, 2003, and HHS has provided an [electronic comment](#) mechanism on its website.

The Department of Education also took immediate action to implement the President's order, releasing a revised draft of [non-regulatory guidelines on supplemental services](#) under Title 1 of the No Child Left Behind Act of 2001, which applies to extra help for students in schools designated as needing improvement. The guidance states that providers that receive indirect federal funds are not covered by federal civil rights laws, unless they also receive other funds that impose such a requirement.

The press release accompanying the release of the Executive Orders stated that further regulatory changes will be made in programs operated by HHS in the Substance Abuse and Mental Health Services Administration and Housing and Urban Development's Community Development Block Grant, HOME, and other programs.

Hiring Discrimination

These orders come at a time of increasing executive implementation of controversial policies, and implement the most controversial part of the administration's faith-based plan. While the House passed a bill authorizing almost all of the administration's plan, the Senate crafted a far less controversial bill focusing on tax breaks for charitable giving, but was silent on the discrimination issue. Since the Department of Education interpreted similar silence in the Leave No Child Behind bill as allowing religious discrimination, concern over this issue kept the bill from passing. Some religious groups, however, maintain that being able to discriminate on religious grounds in their hiring process is essential, even in publicly funded programs. Most notably, last summer there were reports that the Salvation Army was spending upwards of \$100,000 a month to lobby for provisions allowing religious organizations to discriminate in hiring for federally-funded programs. Non-religious organizations, however, do not have the "luxury" of practicing discrimination in hiring.

The administration has mischaracterized the hiring discrimination issue by stating it is merely applying an existing exemption. However, this exemption has only applied to religious groups' hiring of staff for religious based activities. For more background see Americans United for Separation of Church and State's [legal explanation](#) on Title VII exemption.

Concerns About Administration's Policy of Regulatory Implementation

While the main focus of these executive orders seems to be allowing religious grantees to discriminate in hiring, and opening the door to proselytization in voucher-based programs, there are general concerns with the regulatory implementation of the administration's faith-based plan. There is no universal definition of what exactly constituted a "faith-based organization" and there are concerns about grantee accountability due to the reliance on sub-grants by direct federal grantees to smaller faith-based organizations. For more information on these concerns, see the [November 6 OMB Watch Executive Report](#).

Despite the administration's emphasis on getting grant funds to faith-based and community groups, this is merely a reshuffling of the deck. A true emphasis on smaller community and faith-based groups (with strong church/state safeguards) could be a tremendous help to people in need. There is, however, no new federal money for social services programs, and in fact, many programs are either facing cutbacks, or are being funded at the same level yearly, with no adjustments for inflation. While many supporters claim that faith-based organizations can do more with less, there is little to no evidence to back up this claim. Perhaps, in a time of budget cuts and declining federal revenues, ordering the creation of a faith-based office at the Department of Agriculture is a desperate attempt to find a group that can feed thousands with only a few loaves and fishes.

While the administration has publicly held that their faith-based initiative simply "levels the playing field" for religious organizations, on December 12 the Associated Press quoted "administration officials" as saying the orders are "aimed at giving those groups a leg up in the competition for federal money." By directing federal resources to faith-based groups, the administration is discriminating against secular groups and setting the stage for unilateral changes to the focus of federal programs, for example by allowing funding of faith-based abstinence-only educators for an AIDS prevention program.

CBO Study Says Nonitemizer Deduction a Nonstarter for Fundraising

A study released by the Congressional Budget Office (CBO) on December 17, [Effects of Allowing Nonitemizers to Deduct Charitable Deductions](#) found that allowing nonitemizers to claim a deduction for charitable contributions would be unlikely to increase the level of giving by more than 4 percent. The findings are similar to a [Congressional Research Service](#) report earlier this year.

The study examined four possible versions of a nonitemizer deduction, including an unlimited charitable deduction, a ceiling on the amount to be deducted, a floor amount to be contributed before the deduction becomes available, and a requirement that deductions be based on a fixed percent of income. They found allowing deductions above a floor amount would raise the most in contributions. All of the proposals would primarily reward taxpayers for existing behavior, while reducing federal revenues in amounts exceeding the benefits.

The nonitemizer deduction is a feature of the President's faith-based initiative, and was included in legislation that recently failed to pass Congress. Since the President has implemented the grant rules portion of his initiative through Executive Order, it is unclear if he will push for legislation in the next Congress, and if that would include charitable giving incentives. However, he continues to propose permanent repeal of the estate tax, a tax incentive that produces significant charitable contributions. For more information on the estate tax see [About the Estate Tax](#) on our website.

Regulatory Matters

OMB Initiates Sweeping Review of Regulation

OMB's [Office of Information and Regulatory Affairs](#) (OIRA) is instructing federal agencies to evaluate [hundreds of regulatory recommendations](#) submitted by outside parties as part of its [new annual report on the costs and benefits of regulation](#).

These recommendations, the majority of which come from industry or trade associations, heavily target health, safety and environmental protections. Together, the Department of Transportation, Department of Labor, and Environmental Protection Agency (EPA) received 155 recommendations, including suggested reforms of guidance documents. Of the 267 total regulatory recommendations, 52.8 percent advise changes to relax regulation, or in OIRA's words "increase flexibility," and 7.8 percent recommend repealing regulation, while roughly a quarter argue for stronger regulation. OMB Watch will put out a more detailed analysis of specific recommendations in the coming weeks.

Last year -- the first time OIRA asked for recommendations on specific rules -- [OIRA ranked the 71 recommendations it received](#) in terms of "high priority," "medium priority," and "low priority." This year, with the dramatic increase in recommendations, OIRA gives no rankings, but says it will consult with agencies during the evaluation period to determine what recommendations merit action.

On the surface, this may seem relatively benign: OIRA is just passing along a few recommendations. Yet these recommendations are being used as a primary tool for ranking regulatory priorities. OIRA is serving as a conduit for a mostly industry wish list, and demanding that agencies evaluate it -- with OIRA's

guidance, of course. In addition, the Small Business Administration's Office of Advocacy will be closely involved in evaluating each proposal and choosing priorities, according to OIRA's report, which is not encouraging given its long [track record of opposing strong health, safety and environmental protection](#).

Because of the report's wide-open nature, OIRA generally received just one set of comments for each regulation, expressing one set of views (as predicted in [OMB Watch's comments on OIRA's draft report](#)). This is hardly a sound foundation for priority setting. Outside parties have no way of knowing whether a rule they are interested in might be submitted to OIRA, and subjected to examination. Presumably if OIRA put out a request for comment on a specific regulation -- as opposed to its general request -- there would be a greater volume of comments, presenting a fuller picture of the issues involved. As it is, agencies are being asked to potentially reshuffle priorities based on who happened to respond to OIRA. Not surprisingly, given their vast resources and scope, industry groups are disproportionately represented.

Of course, some of the recommendations -- including [those submitted by OMB Watch](#) -- support stronger health, safety, and environmental regulation. It will be interesting to see if any of these receive priority, as the administration will ultimately be judged on the outcome of its evaluation.

New Fuel Efficiency Standard for SUVs Falls Short

The [National Highway and Transportation Administration](#) (NHTSA) recently proposed a new -- but unfortunately, weak -- fuel efficiency standard for light trucks and sports utility vehicles that will achieve minimal pollution reductions.

The proposal would increase fuel economy for such vehicles by a mere 1.5 miles per gallon (mpg), from 20.7 mpg today to 22.2 mpg by 2007 -- well below what is technologically feasible. Indeed, [as Public Citizen points out](#), "Ford in 2000 said it would boost fuel economy of its light trucks by 25 percent by 2005, and General Motors and DaimlerChrysler have pledged to follow suit. In contrast, Bush's proposal calls for a seven percent increase."

Auto manufacturers have successfully resisted higher fuel efficiency standards for years. Over the last 15 years, NHSTA increased the combined Corporate Average Fuel Economy (CAFE) for light trucks by only 0.7 mpg. For the last six years, Congress has denied NHTSA funds to update its CAFE standards. This long history of inaction makes NHTSA's weak proposal especially disappointing.

According to NHTSA, the proposal is expected to reduce nitrogen oxides by 600 tons and fine particulate matter by 500 tons over the 25-year life span of model year 2005-2007 light trucks -- which an agency official, quoted in BNA, characterized as "positive environmental benefits, but it's a small positive."

Court Reinstates 'Roadless Rule'

On December 12, a federal appeals court in California reinstated a Clinton-era rule that protects nearly 60 million acres of national forests from logging and road construction. The decision lifts [an injunction issued by a federal judge](#) in Idaho, who in May of 2001, found the rule would cause "irreparable harm" to the timber industry.

The Bush administration declined to appeal this ruling, and in fact, seemed to embrace it. However, a coalition of environmental groups, [led by Earthjustice](#), intervened and [won a strong rebuke to the injunction](#).

Specifically, [the appeals court ruled](#) that in issuing the injunction, Judge Edward Lodge overestimated the probable success of the plaintiffs at trial. (There must be a high probability of success for an injunction to be issued.) The timber industry contends that the Forest Service violated requirements for public input in

issuing the rule. Yet over a three-year process, the agency held more than 600 public meetings and reviewed comments from 1.6 million Americans, most of them supporting the ban. The appeals court found this adequate.

The court also ruled that Lodge overstated the harm to the timber industry while ignoring important benefits, writing “[R]oadless areas contribute to the health of the public because they help preserve the forest system’s watersheds, the rivers, streams, lakes, and wetlands that are ‘the circulatory system of ecosystems, and water is the vital fluid for inhabitants of these ecosystems, including people.’” The rule now goes back to Lodge for trial, deciding whether the rulemaking violated the National Environmental Policy Act and the [Administrative Procedure Act](#).

Administration Issues Weak Rule on Livestock Waste

Answering a court-imposed deadline, the Bush administration [issued a weak final rule](#) to limit runoff from livestock waste at large factory farms, which produce 220 billion gallons of liquefied manure each year.

The rule waters down a previous Clinton-era proposal, [according to the Natural Resources Defense Council](#) and the [Washington Post](#), by reducing the number of affected operations by more than half; allowing factory farms to write their own permit conditions; and limiting the liability of major corporations for illegal spills by their subcontractors.