

Fast-Tracking Deregulation: The Risks of Bypassing Notice and Comment

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May 12, 2025**

On April 9, 2025, President Trump issued a memorandum titled [*Directing the Repeal of Unlawful Regulations*](#), instructing federal agencies to roll back existing regulations the administration deems inconsistent with recent Supreme Court decisions. The memo aligns with [*Executive Order 14219*](#) (February 19, 2025), which established a 60-day review period for identifying “potentially unlawful regulations.”

An important aspect of the memo is its directive that agencies invoke the “good cause” exception under the Administrative Procedure Act (APA) to bypass the typical notice-and-comment procedures when repealing regulations. The memo cites 10 Supreme Court decisions as justification for its deregulatory initiative – five of which have environmental implications: [*Loper Bright v. Raimondo*](#) (2024), [*SEC v. Jarkesy*](#) (2024), [*Ohio v. EPA*](#) (2024), [*Sackett v. EPA*](#) (2023), and [*West Virginia v. EPA*](#) (2022). It asserts that retaining regulations invalidated or undermined by these rulings would be “contrary to the public interest” and “unnecessary,” threshold findings for invoking the “good cause” exception. By the administration’s logic, agencies may immediately repeal rules without public input if doing so merely implements binding judicial decisions.

While this move is framed as restoring lawful regulation and constitutional boundaries, it raises significant concerns. The scope and application of the good cause exception are notoriously uncertain and fact-intensive, and using the good cause exception in this deregulatory context is a legal gray area that remains largely unsettled. Courts have generally construed the exception narrowly, warning against its use as a shortcut around democratic accountability. Applying it broadly to repeal a wide swath of regulations could invite legal challenges and risk overreach, especially where the connection between the regulation and the cited Supreme Court precedent is debatable. And if aggressively pursued, it may set a precedent for future administrations to bypass notice-and-comment procedures not just to implement, but to *undo* regulatory policy – effectively undermining procedural safeguards embedded in the APA.

This is an administrative law gamble by the Trump administration. This maneuver signals a potentially far-reaching deregulatory strategy under the guise of legal compliance; however, it hinges on a controversial interpretation of the APA’s good cause exception. The law is unsettled, and the potential for abuse is high. It is likely these moves will result in litigation and cause regulatory uncertainty while court challenges play out. This development warrants

close monitoring and serves as another reminder for stakeholders to consider engaging with agencies to review specific regulations.

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