The Risks Of Trump's Plan To Fast-Track Deregulation

By **Tim Sowecke and Gerard D'Emilio** (May 14, 2025)

On April 9, President Donald Trump issued a memorandum instructing federal agencies to roll back existing regulations the administration deems inconsistent with recent U.S. Supreme Court decisions.

The memo aligns with the executive order Trump issued on Feb. 19 that established a 60-day review period for identifying "potentially unlawful regulations."

An important aspect of the April 9 memo is its directive that agencies invoke the good cause exception under the Administrative Procedure Act to bypass the typical notice-and-comment procedures when repealing regulations.

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The memo cites 10 Supreme Court decisions as justification for its deregulatory initiative — five of which have environmental implications: Loper Bright v. Raimondo (2024), U.S. Securities and Exchange Commission v. Jarkesy (2024), Ohio v. U.S. Environmental Protection Agency (2024), Sackett v. EPA (2023) and West Virginia v. EPA (2022).

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More specifically, 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.

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 Administrative Procedure Act'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.

Supreme Court Decisions With Environmental Implications

Reviewing these five decisions shows how they could justify the administration's push to expedite deregulation using the good cause exception.

Loper Bright Enterprises v. Raimondo

In this 2024 decision, a 6-3 majority overruled the 40-year-old Chevron doctrine, which required courts to defer to agency interpretations of ambiguous statutory language if reasonable. The court instead held that judges must independently interpret statutory language, even when ambiguous.

While the majority framed this as a restoration of judicial responsibility, the dissent warned

that this could destabilize the legal system. The decision opens the door to broader challenges against regulations that arguably exceed statutory bounds, though courts may still accord persuasive weight to agency expertise where interpretations are reasonable and consistent.

SEC v. Jarkesy

Here, the court ruled in 2024 that the SEC's use of administrative proceedings to impose civil penalties violates the Seventh Amendment right to a jury trial. This decision limits the enforcement authority of multiple federal agencies, including the U.S. Food and Drug Administration, the EPA, the Federal Communications Commission, and the Consumer Financial Protection Bureau, which rely on civil penalties as key enforcement mechanisms.

The dissent called the decision "a devastating blow to the manner in which our government functions."

Ohio v. EPA

In this 2024 decision, the court held that if a federal agency fails to provide a reasoned response to comments raised during the rulemaking process, a court may consider the final rule unlawful. The court invalidated a federal emissions plan under the Clean Air Act, finding the EPA's justification insufficient under the good neighbor provision.

The decision limits the EPA's authority to implement federal plans and signals that future environmental regulations may face heightened scrutiny, especially in matters involving interstate pollution.

Sackett v. EPA

In Sackett, the court in 2023 limited the scope of wetland jurisdiction under the Clean Water Act by requiring a "continuous surface connection" to navigable waters. While the EPA has amended its rule in response, enforcement varies widely across states and regions. The agency recently concluded another public comment period to refine its definition in line with the ruling.

West Virginia v. EPA

In this 2022 decision, the court applied the major questions doctrine to strike down the 2015 Clean Power Plan rule, which regulated carbon dioxide emissions from existing power plants. The ruling requires agencies to demonstrate clear congressional authorization for regulations with significant economic or political effects.

The doctrine now serves as a basis for repealing rules that exceed statutory authority, and it provides the current administration with a potent tool to unwind environmental and other major regulations.

Takeaways

While the Trump administration's use of the good cause exception 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 the procedural safeguards embedded in the Administrative Procedure Act.

Moreover, this move could reshape a broader balance of power between the executive branch and administrative agencies by promoting a more centralized, top-down approach to regulatory rollback efforts. By directing agencies to interpret judicial decisions as mandates for immediate repeal, the administration effectively substitutes its own judgment for the deliberative process traditionally conducted within agencies and with participation of stakeholders and the public in the notice-and-comment rulemaking process.

This approach also raises questions about the separation of powers, as it positions the executive branch not merely as an enforcer of law but as an arbiter of judicial meaning with unilateral authority to act upon it.

In the long term, normalizing such practice could encourage a pattern of episodic regulatory instability, where rules swing widely based on judicial shifts and presidential priorities rather than the slower, more stable participatory processes involved in notice-and-comment rulemaking.

This development warrants close monitoring. And it serves as a reminder to stakeholders to engage with agencies to review specific regulations and provide appropriate contributions to the administrative record as these rule review processes unfold.

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