

Bush Directive Increases Sway on Regulation

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President Bush, seen here at the White House Monday, has signed an executive order that in effect increases his control over guidelines the government issues regarding health, safety, privacy and other issues.

By ROBERT PEAR
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WASHINGTON, Jan. 29 — President Bush has signed a directive that gives the White House much greater control over the rules and policy statements that the government develops to protect public health, safety, the environment, civil rights and privacy.

In an executive order published last week in the Federal Register, Mr. Bush said that each agency must have a regulatory policy office run by a political appointee, to supervise the development of rules and documents providing guidance to regulated industries. The White House will thus have a gatekeeper in each agency to analyze the costs and the benefits of new rules and to make sure the agencies carry out the president's priorities.

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This strengthens the hand of the White House in shaping rules that have, in the past, often been generated by civil servants and scientific experts. It suggests that the administration still has ways to exert its power after the takeover of Congress by the Democrats.

The White House said the executive order was not meant to rein in any one agency. But business executives and consumer advocates said the administration was particularly concerned about rules and guidance issued by the Environmental Protection Agency and the Occupational Safety and Health Administration.

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In an interview on Monday, Jeffrey A. Rosen, general counsel at the White House Office of Management and Budget, said, "This is a classic good-government measure that will make federal agencies more open and accountable."

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Business groups welcomed the executive order, saying it had the potential to reduce what they saw as the burden of federal regulations. This burden is of great concern to many groups, including small businesses, that have given strong political and financial backing to Mr. Bush.

INSIDE

Consumer, labor and environmental groups denounced the executive order, saying it gave too much control to the White House and would hinder agencies' efforts to protect the public.

Typically, agencies issue regulations under authority granted to them in laws enacted by Congress. In many cases, the statute does not say precisely what agencies should do, giving them considerable latitude in interpreting the law and developing regulations.

The directive issued by Mr. Bush says that, in deciding whether to issue regulations, federal agencies must identify "the specific market failure" or problem that justifies government intervention.

Besides placing political appointees in charge of rule making, Mr. Bush said agencies must give the White House an opportunity to review "any significant guidance documents" before they are issued.

The Office of Management and Budget already has an elaborate process for the review of proposed rules. But in recent years, many agencies have circumvented this process by issuing guidance documents, which explain how they will enforce federal laws and contractual requirements.

Peter L. Strauss, a professor at Columbia Law School, said the executive order “achieves a major increase in White House control over domestic government.”

“Having lost control of Congress,” Mr. Strauss said, “the president is doing what he can to increase his control of the executive branch.”

Representative Henry A. Waxman, Democrat of California and chairman of the Committee on Oversight and Government Reform, said: “The executive order allows the political staff at the White House to dictate decisions on health and safety issues, even if the government’s own impartial experts disagree. This is a terrible way to govern, but great news for special interests.”

Business groups hailed the initiative.

“This is the most serious attempt by any chief executive to get control over the regulatory process, which spews out thousands of regulations a year,” said William L. Kovacs, a vice president of the United States Chamber of Commerce. “Because of the executive order, regulations will be less onerous and more reasonable. Federal officials will have to pay more attention to the costs imposed on business, state and local governments, and society.”

Under the executive order, each federal agency must estimate “the combined aggregate costs and benefits of all its regulations” each year. Until now, agencies often tallied the costs and the benefits of major rules one by one, without measuring the cumulative effects.

Gary D. Bass, executive director of O.M.B. Watch, a liberal-leaning consumer group that monitors the Office of Management and Budget, criticized Mr. Bush’s order, saying, “It will result in more delay and more White House control over the day-to-day work of federal agencies.”

“By requiring agencies to show a ‘market failure,’” Dr. Bass said, “President Bush has created another hurdle for agencies to clear before they can issue rules protecting public health and safety.”