



Insight

No 'Midnight' After This Election

SAM BATKINS | MARCH 21, 2013

It is not uncommon for presidential administrations to issue a large number of regulations in the interregnum between Election Day and the inauguration. These are often called “midnight regulations” because, for outgoing presidents, they are a final effort to shape the nation’s policies. But every president, regardless of electoral status, has a reason to accelerate the issuance of regulations in the waning days of a term: presidents up for reelection typically delay controversial regulations that could anger various constituencies until after the election, resulting in a surfeit of rules in the hopper the day after the election.

Given the slow pace of significant rulemaking in 2012, after what had been an extremely active Obama administration regulatory agenda the preceding three years, most regulatory scholars expected the agencies to be very busy in the post-election period. However, the data reveal subdued regulatory activity, akin to the last reelection year (2004), with sharply fewer significant regulations as compared to the election years of 2008 and 2000.

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