

September 16, 2007

In Turnaround, Industries Seek U.S. Regulation

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WASHINGTON, Sept. 15 — After years of favoring the hands-off doctrine of the Bush administration, some of the nation's biggest industries are pushing for something they have long resisted: new federal regulations.

For toys and cars, antifreeze and fireworks, popcorn and produce and cigarettes and light bulbs, among other products, industry groups or major manufacturers are calling for federal health, safety and environmental mandates. Some of those industries are abandoning years of efforts to block such measures, often in alliance with the Bush administration, which pledged to ease what it views as costly, unnecessary rules.

The consequences for consumers, though, are not yet clear. The tactical shift by industry groups is motivated by a confluence of self-interests: growing competition from inexpensive imports that do not meet voluntary standards, and a desire to head off liability lawsuits and pre-empt tough state laws or legal actions that were a response to laissez-faire Bush administration policies. Concerns that Democrats could soon expand their control in Washington have also prompted manufacturers or producers to seek regulations that they consider the least burdensome, regulatory experts say.

“There seems to be, at the moment, a fair amount of efforts under way by individual industries to put into statute what had either previously been voluntary consensus standards or industry goals,” said Rosario Palmieri, a regulatory lobbyist at the [National Association of Manufacturers](#), which has often opposed government regulations. “This year, we have seen quite a bit of it.”

Rick Melberth, director of regulatory policy at OMB Watch, a Washington group that tracks federal regulatory actions, agreed. “I have never before seen so many industries joining a push for regulation,” Mr. Melberth said. “What we need to watch closely is if this will achieve a real increase in standards and public protections or simply serve corporate interests.”

Some industries and consumer groups are aligned in seeking the same regulations, though perhaps for different reasons. “It’s definitely a strange-bedfellow situation,” said Sarah Klein, a lawyer at the [Center for Science in the Public Interest](#), which is seeking, along with grocery stores and produce growers, new requirements to prevent food-borne illnesses. “The voluntary system is not working from a food-safety perspective, and it’s creating real problems for the industry.”

Other industries, though, are endorsing mandated government standards that fall well short of what consumer advocates want or what tougher state rules require. Trade groups representing makers of antifreeze, upholstered furniture and all-terrain vehicles, for example, had long opposed federal regulations, but are now pushing the Bush administration for rules that consumer advocates say inadequately address safety or environmental concerns.

“I am worried about industry lobbyists bearing gifts,” said Edmund Mierzwinski, consumer program director at the U.S. Public Interest Research Group in Washington. “I don’t trust them. Their ultimate goal is regulation that protects them, not the public.”

Federal agencies and the White House have responded to these regulatory proposals in varying ways, with some agencies quickly endorsing them and others deferring action or moving to block them. Susan E. Dudley, the head of the White House [Office of Management and Budget](#) division that oversees administration regulatory policy, said she was not sure if the number of requests for federal regulations from industry groups was rising. The administration must evaluate each of these proposals, she said, “to understand the full consequences of regulations on all citizens.”

The practice of industry groups turning to regulators or legislators in Washington for a national standard or mandate is not

new, of course. While businesses often oppose requirements by saying they are unnecessary as it is already in their interest to produce safe products, at other times they have asked for them to avoid a patchwork of state regulations, to ensure that competitors must meet the same standard or to provide legal protection.

Warning labels on cigarettes, certain workplace safety laws and even nutritional labels on food packaging can be attributed, in part, to actions by industries over the last four decades to push for a federal standard, industry lawyers and lobbyists said.

But industry officials, consumer groups and regulatory experts all agree there has been a recent surge of requests for new regulations, and one reason they give is the Bush administration's willingness to include provisions that would block consumer lawsuits in state and federal courts.

Such pre-emption clauses were included, for example, in a drug label rule issued by the [Food and Drug Administration](#) in 2006 and in a new fire-prevention standard for mattresses imposed by the [Consumer Product Safety Commission](#) in July, said David C. Vladeck, a professor at the [Georgetown University](#) Law Center.

The pre-emptions bar consumers from filing liability claims in courts and supersede any tougher state regulations, extremely valuable protections for a major manufacturer, Mr. Vladeck said. "This is Christmas," he said of industry, "this is their wish list." A number of businesses are seeking such pre-emptions, though the clauses are being challenged in many courts.

Concerns about competition have led to other proposals. As imports from China have grown in recent years, low-priced Chinese products that do not meet voluntary industry standards have motivated trade groups to seek new safety mandates.

After a series of recalls this year, for example, American toymakers recently asked the federal government to allow the Consumer Product Safety Commission to require premarket safety testing of all toys.

The all-terrain vehicle industry for years opposed mandatory standards dictating the way they build their machines. But the industry has changed course as it lost market share to lower-priced Chinese-made A.T.V.'s that do not meet voluntary standards, including some with inadequate brakes and top speeds that exceed guidelines.

"When you move from voluntary to mandatory you give the government policing power to make sure that products on the market meet safety standards — so we are all on a level playing field," said Tim Buche, president of the Specialty Vehicle Institute of America, which represents companies that manufacture A.T.V.'s in the United States.

The willingness of state legislators to enact their own regulations or attorneys general to join together to go after companies has also inspired industry groups to seek new federal regulations. California and Oregon, for example, enacted laws requiring antifreeze manufactures to include a bitter-tasting additive to their formulas to help prevent children and pets from drinking it. That was enough to convince the trade group to drop its opposition to a federal standard and come forward in an alliance with the Doris Day Animal League to propose a new mandate, which included liability protection against any claims filed related to the change in the formula. Environmental groups, though, object to the proposed solution, saying the additive could pollute water.

Some of the broadest shifts by industry have come as Congress, now controlled by Democrats, is indicating that it is serious about taking up major regulatory changes, including tobacco regulations, a possible increase in fuel efficiency standards and legislation addressing [climate change](#), which could affect factories that manufacture thousands of different products.

"They are coming forward, trying to shape the debate with their own proposals so that when activist legislators start writing the new laws, they are included," said Rena Steinzor, a professor of environmental law at the [University of Maryland](#) and a former federal regulator. Ms. Steinzor said she was surprised recently when several major corporations sought her help in negotiating with environmental groups.

The slow response by the Bush administration to several of these proposals has been a source of frustration to some industry groups.

"We have had a very, very uphill battle trying to get regulation," said David H. Baker, a lawyer for the Lighter Association.

The organization, representing cigarette lighter manufacturers, has been seeking a mandatory standard because unsafe, inexpensive Chinese imports were flooding the market, but staff members at the Consumer Product Safety Commission recommended against such a rule, saying the number of deaths and injuries did not justify it.

Similarly, the Bush administration is opposing legislative efforts, endorsed by popcorn makers and health and labor groups, that would impose strict limits on the levels of fake butter that can be found in the air in microwave popcorns plants. An ingredient in synthetic butter can cause deadly lung damage in workers, but the administration says the science on the issue is not conclusive.

Last year, almost all of the nation's spinach crop was destroyed after contaminated spinach from one 50-acre California farm sickened nearly 200 people in 26 states, killing a Wisconsin woman. It was the last straw for large growers, who now support mandatory safety standards. But the [Department of Health and Human Services](#) has been slow to endorse them, leading some proponents to conclude that the agency has objections.

"It's a little unique when both consumer groups and industry associations are out there saying that we need new regulations, and the government doesn't agree," said Jenny Scott, vice president for food safety programs of the Grocery Manufacturers Association.

Ms. Dudley, of the Office of Management and Budget, said the Bush administration was not trying to block regulation requests. "There is no effort to delay anything," she said. "We are not trying to stop these things from occurring."

Robert Shull, deputy director for auto safety and regulatory policy at [Public Citizen](#), a consumer advocacy group based in Washington, said his organization and other consumer watchdogs would be keeping close tabs to see if these different proposals amounted to more than simply "opportunistic attempts to avoid real regulation." But Mr. Shull said he was encouraged that at least some companies appeared to be coming forward with meaningful ideas.

"It can give American companies a leading edge," Mr. Shull said, "especially if the safety or environmental standard is in the vanguard of what is going to happen worldwide."

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