

Joseph Matal in Law360: 'Gambit To Block Trump's Midnight Regulations Will Likely Fail'

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As has become customary at the end of a presidential administration, the Trump team finalized a number of changes to federal regulations in its last few months in office. On Jan. 20, President Joe Biden issued an order immediately freezing all pending regulations — but that order does not reach the many regulations that went into effect just before that date.

For these finalized and effective Trump regulations, the only way for the new administration to alter or suspend them is to go through the same notice and comment rulemaking by which the regulations were created — a cumbersome process which can easily take two years, which requires the agency to justify its changes, and which creates opportunities for litigation challenges.

It is thus of significant interest that the nonprofit consumer advocacy group Public Citizen has published an article making the case that many of the Trump regulations with an effective date prior to Jan. 20 did not actually take effect before that date — and were thus still "pending" and subject to the Biden freeze order.

Public Citizen cites an obscure but potent law known as the Congressional Review Act. The CRA creates an expedited process by which Congress, with simple majority votes and no amendments, can pass a law that repeals a new regulation.

Excerpted from *Law360*. To read the full article, click [here](#).