

RFF REPORT

Catalogue of Oil and Gas Regulations and Non-Regulatory Issues

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Background

The Trump administration has identified increasing U.S. oil and natural gas production as a focus, in part through reducing federal regulations that restrict their development. In this light, beginning January 30, 2017, the President signed a series of executive orders that would require two regulations to be eliminated for every new regulation and for the costs of the new regulation to be fully offset by cost savings from the eliminated regulations. It also reiterated that cost-benefit analyses are required for all major regulations being considered for elimination or modification (as well as for new regulations).

Objectives

The goals of this project are to catalogue a set of existing and very recently eliminated federal regulations and other (i.e., non-regulatory) federal activities affecting the development of oil and natural gas resources in the U.S. and to better understand the impacts on the industry and the public if the regulations were lifted or modified or the activities improved. These impacts would include cost savings and foregone benefits, as costs and benefits are defined in Circular A-4, and potential effects on oil and gas production, prices, and other factors.

This report and attachments present a catalogue of existing federal regulations promulgated after 2005 and relevant to the development and transportation of oil and gas resources. The purpose of the catalogue is to document the most burdensome regulations and non-regulatory activities as opposed to developing a comprehensive list.

Methods

We have identified the listed rules through a variety of sources. All economically significant regulations (with costs or benefits exceeding \$100 million annually, as defined by Executive Order 12866) are reported in the Office of Management and Budget's (OMB's) Annual Reports, the U.S. Government Accountability Office (GAO) database of regulations,¹ and the database maintained by the American Action Forum.² These regulations are promulgated by federal departments, agencies, and commissions. We are also interested in non-economically significant regulations, to the extent industry has been critical of them, and non-regulatory items that also affect industry.

We categorize regulations in a number of different ways. The first is classifying the regulations into three into three groups based on the scope of the regulatory effects. The first category, direct, identifies rules that directly affect oil and gas production up to the "refinery gate."³ The second category, indirect, includes rules affecting the oil and gas industry beyond the refinery gate through to final demand, thus, including CAFE rules and rules on electric utilities. The third category, multi-sectoral, includes rules that affect the oil and gas industry along with other sectors. Finally, the report identifies non-regulatory federal activities, such as permitting, which industry has targeted as onerous and in need of reform.

To learn about the industry's views of particular regulations and non-regulatory processes (both economically significant and not), we combed industry and trade association websites, obtained comments from companies, searched the comments in the regulations' dockets,⁴ and read comments submitted to agencies in the spring of 2017 in response to a call for such comments from the Trump administration. We focused on comments from the American Petroleum Institute (API), the Independent Petroleum Association of America (IPAA), the Interstate Natural Gas Association of

¹ GAO Federal Rules Database (<http://www.gao.gov/legal/congressional-review-act/overview>).

² American Action Forum's RegRodeo online tracking tool (<https://regrodeo.com/>).

³ For natural gas, the report uses "refinery gate" to include mainline pipelines to the point of local distribution.

⁴ Found on the eRulemaking Management Office's website (<https://www.regulations.gov/>).

America (INGAA), the American Exploration & Production Council (AXPC), and the Association of Oil Pipe Lines (AOPL). We noted when a regulation or non-regulatory item was mentioned in comments found in any of these sources under “Comment.”

The comments submitted to agencies include those sent to the Department of Commerce (DOC)⁵ and the Environmental Protection Agency (EPA)⁶ in the spring of 2017 as part of agency efforts to comply with President Trump’s executive order, “Enforcing the Regulatory Reform Agenda.”⁷ These comments include those submitted by API,^{8,9} IPAA,^{10,11} INGAA,¹² and AXPC.¹³ In the catalogue, we note if a regulatory or non-regulatory item was mentioned in these comments to agencies in the spring, as this is likely to signal significant costs as perceived by industry (under “AgencyComment”).

We likewise used these comments to classify the importance of these regulations to industry. We considered a regulation “important” to industry if it was mentioned in the comments sent to agencies in spring 2017. We considered a regulation “less important” to industry if there were comments on the regulation found on association websites, in rule dockets, or elsewhere. Lastly, we do not assess the “importance” of non-regulatory items. These items were almost entirely found in the spring comments to agencies and are therefore priorities for industry.

Some regulations were included that were economically significant but did not have comments that we found from the five industry associations listed above. Almost all regulations (particularly economically significant regulations) have comments submitted. Only one regulation did not have comments included in its docket. In the catalogue, we do not include non-economically significant regulations for which we did not find comments, as discussed above.

Some of the rules involve transfers of money from the federal government to outside entities or the reverse. While transfer payments are not included in the RIA (as per OMB Circular A-4, as such payments reflect a net zero impact), we discuss any issues qualitatively, as they have the potential to impact certain groups more than others. Royalty payments, for example, are considered transfer payments that have no net effect on the economy but increase costs for the oil and gas industry.

And lastly, as noted, we set an approximately ten-year window for gathering regulations (2006-2017).

⁵ Impact of Federal Regulations on Domestic Manufacturing. <https://www.regulations.gov/docket?D=DOC-2017-0001>.

⁶ Evaluation of Existing Regulations, Docket Number. <https://www.regulations.gov/docket?D=EPA-HQ-OA-2017-0190>.

⁷ Presidential Executive Order on Enforcing the Regulatory Reform Agenda. <https://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda>.

⁸ API comments to EPA, May 15, 2017. <https://www.regulations.gov/document?D=EPA-HQ-OA-2017-0190-52125>.

⁹ API comments to DOC, March 7, 2017. <https://www.regulations.gov/document?D=DOC-2017-0001-0126>.

¹⁰ IPAA comments to EPA, May 15, 2017. <http://www.ipaa.org/wp-content/uploads/2017/05/Comments-EPA-Evaluating-Existing-Regulations-05-15-2017.pdf>.

¹¹ IPAA comments to DOC, March 31, 2017. <https://www.regulations.gov/document?D=DOC-2017-0001-0086>.

¹² INGAA comments to EPA, May 15, 2017. <https://www.regulations.gov/document?D=EPA-HQ-OA-2017-0190-35025>.

¹³ AXPC comments to EPA, May 15, 2017. <https://www.regulations.gov/document?D=EPA-HQ-OA-2017-0190-37900>.

Departments and Agencies

As for scope across the federal government, rules from the following departments and agencies were included:

- Department of Defense
 - Army Corps of Engineers
- Department of Homeland Security
 - Federal Emergency Management Agency
 - Transportation Security Administration
 - U.S. Coast Guard
 - U.S. Customs and Border Patrol
- Department of Interior
 - Bureau of Indian Affairs
 - Bureau of Land Management
 - Bureau of Ocean Energy Management
 - Bureau of Safety and Environmental Enforcement
 - National Park Service
 - Office of Natural Resources Revenue
 - U.S. Fish and Wildlife Service
- Department of Labor
 - Occupation Safety and Health Administration
- Department of Transportation
 - Federal Railroad Administration
 - National Highway Traffic Safety Administration
 - Pipeline and Hazardous Materials Safety Administration
- Environmental Protection Agency
- Federal Energy Regulatory Commission
- Securities and Exchange Commission

Database Categories

Each regulation included in this database is described by an extensive list of identifiers in table 1 below.

Table 1. Database Categories and Descriptions

Field	Description
Department	Department issuing the regulation
Agency	Agency (if applicable) issuing regulation
Status*	Finalized: The final rule has been published in the federal register Proposed: The proposed rule has been published in the federal register Repealed: A final rule has been removed by rulemaking process or joint resolution under the Congressional Review Act Delayed: A final rule's effective date has been delayed by notice or rulemaking Partial/Proposed Delay: A final rule has certain requirements delayed and/or a delay has been proposed Stayed: Courts have stayed the rule Withdrawn: No further regulatory action has occurred following the proposal of the rule
Title	Title of the regulation
RIN	Regulation Identifier Number
Citation	Federal Register citation for the final rule (or for the proposed rule if not finalized)
Note	Where we make note of issues, such as citations for regulatory actions to repeal rules or other relevant RIN numbers
DocketNumber	Docket number for the regulation
Publication Date	Publication Date for the Federal Register citation
DateEffective	Date final rule goes into effect, according to the Federal Register
AgencyComment	Was the rule or non-regulatory item mentioned in the comments sent to agencies as part of Executive Order 13777, as discussed above? (1=yes, 0=no)
Comment	Does this item have a comment from industry (including comments on proposed versions of rules)? (1=yes, 0=no)
Sectoral Scope	Scope of regulatory item impact (1=direct, 2=indirect, 3=multi-sectoral, 0=non-regulatory), as defined above
NonRegSectoralScope	Scope for non-regulatory item impact (1=direct, 2=indirect, 3=multi-sectoral, 0=regulatory item)
MajorMinor	Distinction based on Congressional Review Act definitions. Major generally refers to rules that are economically significant, though rules can be major for a few other reasons as well.
Significant12866	Economically Significant: Significant under Executive Order 12866 because of annual economic impact of \$100 million or more Other significant: Significant under 12866 for other reasons (e.g., presenting novel legal issues) Non-Significant: Not significant under 12866
MidnightRule	Issued in the lame duck period of the Obama Administration: November 9, 2016 through January 20, 2017 (1=yes, 0=no)
CRA	Item considered by Congress for repeal under the Congressional Review Act (1=yes, 0=no)
Important	A regulation is important to industry if mentioned in spring 2017 comments to agencies, a regulation is less important if it was mentioned in other comments on regulations. 1=Economically significant and important to industry 2=Economically significant and less important to industry 3=Economically significant and not mentioned in comments 4=Non-economically significant and important to industry 5=Non-economically significant and less important to industry 6=Non-regulation item important or less important to industry
CRANotes	Notes on the actions taken by Congress on regulatory item under the Congressional Review Act
CommentSourceNotes	Where we found comments on the regulatory item

*Discussed further in Appendix.

Non-Regulatory Items

Non-regulatory items in the database are categorized in less detail than regulations. Because the scope of these comments can be so broad, we list the comments rather than any or all applicable laws or processes. If the comment is on the substance of a rule in our database it is not included in this section of the catalogue to avoid redundancy. We classify the remaining comments as to their sectoral scope (as described above in “NonRegSectoralScope”). These non-regulatory items are listed at the bottom of the combined catalogue and separately under the “Non-Regulatory” tab. Sometimes it is difficult to classify whether a comment applies to the substance of a rule or an agency activity or guidance that goes beyond the rule. In that case, we will default to a non-regulatory designation.

Comments are designated by the following identifiers: Title (summary of comments and number of comments that address this issue), AgencyComment, Comment, and NonRegSectoralScope. A few categories simply identify that these are non-regulatory items (such as SectoralScope of 0 and Importance of 6). Other categories, such as Federal Register citation and Publication Date, are filled out where available.

Summary of Regulatory and Non-Regulatory Items in Catalogue

In this section, we present counts of various regulatory and non-regulatory items in the catalogue using the identifiers listed above.

Table 2 provides counts of the status of regulations in our database. Overall, there are 136 total items in our catalogue. We include 103 regulations (including four that lack RIN numbers), of which 82 are final and 22 are proposed or have another status. All final rules have dates that they go into effect. Delayed, Stayed, Withdrawn, and Repealed regulations generally do not have effective dates, save for the EPA’s delayed accidental release prevention requirements. BLM has given the Office of Management and Budget (OMB) notice of proposed rulemaking to delay its methane waste prevention rule until 2019,¹⁴ but because the delay has not been finalized, we are still including the rule’s original effective date.

Note the big ramp up of rules in the last two years of the Obama administration. After the Trump administration began, twelve rules affecting the oil and gas sector were placed into the Congressional Review Act process, but only two were actually eliminated (the SEC rule, Disclosure of Payments by Resource Extraction Issuers, and the BLM Planning 2.0 rule). One more rule, DOI’s Federal Oil and Gas Valuation and Federal and Indian Coal Valuation, was also repealed, but through the rulemaking process (discussed further in the Appendix).

¹⁴ Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Implementation Dates for Certain Requirements.
<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201704&RIN=1004-AE54>.

Table 2. Status of Rules by Publication Year and Effective Year

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2019	Total
Published in Federal Register	2	2	4	4	8	2	9	5	3	21	36	7	N/A	103
Effective Date of Final Rules*	2	2	3	4	9	2	8	3	1	12	22	14	1	82
Publication Date of Proposed Rules	0	0	0	0	1	0	0	1	1	1	5	1	N/A	10
Publication Date of Delayed/Stayed/Repealed/Withdrawn Rules	0	0	0	0	0	0	0	1	0	5	5	1	N/A	12
Publication Date of Rules Considered under CRA	0	0	0	0	0	0	0	0	0	3	8	1	N/A	12
Publication Date of Rules Repealed under CRA	0	0	0	0	0	0	0	0	0	0	2	0	N/A	2

*Sorted by year in which rules that are finalized and still in effect today went into effect, including rules delayed with a later effective date.

Table 3 provides counts of the departments/agencies issuing the rules in our database. They are dominated by the EPA with 46, Interior with 28 and Department of Transportation with 20. This same dominance applies to final rules. Rules that were stayed, delayed, or postponed are included in the last column. EPA, DOI, DOT, and SEC had regulations that were delayed, repealed, or stayed, and DHS had a regulation that was withdrawn. The remaining regulations are proposed regulations that were not finalized.

Table 3. Number of Rules by Department

Department	Regulation Counts	Finalized Regulation Counts*	Stayed, Delayed, Repealed, or Withdrawn
Homeland Security	5	3	1
Defense	1	1	0
Energy	2	2	0
Interior	28	22	5
Labor	4	2	0
Transportation**	20	15	1
Environmental Protection Agency**	46	40	4
Securities and Exchange Commission	1	0	1

*Does not include delayed, stayed, or withdrawn regulations.

**Includes 4 regulations issued jointly by DOT and EPA, meaning the totals for these columns will be greater than the total number of regulations.

Table 4 classifies all 103 rules by their scope and by whether the rule is important to industry or less important (as defined above) in terms of changing or eliminating the rule or not mentioned by industry.

Referring to Table 4, there are 51 economically significant rules and 48 non-economically significant rules. Twenty-four are important to industry, 68 are less important, and 11 are not mentioned by the five industry associations. In terms of scope, 37 are direct, 15 are indirect, with most of these being major, and 47 are multi-sectoral. As for the focus of cost-benefit analyses as part of our next report, the six regulations that are major, direct, and important to industry are the obvious first priority. As a second priority, we could choose from the eight indirect and multi-sectoral rules that are important to industry and economically significant and perhaps add the five direct rules that are less important to industry and economically significant. All of these have RIAs, so their costs and benefits can be analyzed.

Table 4. Economic Significance, Sector, and Importance to Industry

Category	Important to industry	Less important	Not mentioned	Total
Economically Significant	14	31	6	51
Direct	6	5	0	11
Indirect	3	8	2	13
Multi-sectoral	5	18	4	27
Non-economically significant*	10	38	NA	48
Direct	5	21	NA	26
Indirect	0	2	NA	2
Multi-sectoral	5	15	NA	20
Undetermined**	0	4	0	3
Total	24	68	11	103

**Nonsignificant or Other Significant under Executive Order 12866*

***Indicates this type of regulation is a Request for Information and did not contain regulatory action.*

Table 5 provides the same information for final rules only. If we decide to limit our analyses to final rules, our first priority would be the five rules that are major, direct, and important, with the second priority being among the six rules that are economically significant and important to industry and are also indirect or multi-sectoral plus the four that are direct, economically significant and are less important to industry.

Table 5. Economic Significance, Sector, and Importance to Industry for Final Rules Only

Category	Important to industry	Less important	Not mentioned	Total
Economically Significant	11	28	6	45
Direct	5	4	0	9
Indirect	3	7	2	12
Multi-sectoral	3	17	4	24
Non-economically significant*	8	26	NA	34
Direct	3	14	NA	17
Indirect	0	2	NA	2
Multi-sectoral	5	10	NA	15
Undetermined**	0	2	0	2
Total	19	53	9	81

**Nonsignificant or Other Significant under Executive Order 12866*

***Indicates this type of regulation is a Request for Information and did not contain regulatory action.*

Turning to comments, all but six regulations in our catalogue had comments, as shown in table 6 below. Information on the regulations with comments, with comments submitted to agencies in the spring of 2017, and without comments is below. Notably, none of the regulations without comments affected the oil and gas industry directly. It is important to re-emphasize that we included the spring 2017 comments in the broader comments category, so there is some overlap with those first two categories.

Table 6. Comments on Regulations

Category	Direct	Indirect	Multi-Sectoral	CRA Considered	Midnight Regulation	Final	Stayed	Total
Regulations with Comments	39	14	44	12	13	75	2	97
Regulations with Spring Agency Comments	11	3	10	3	5	19	1	24
Regulations without Comment	0	2	4	0	0	6	0	6

Appendix

Proposed/Partially Delayed Regulations

These regulations have had certain requirements delayed and/or have had proposed rulemaking published in the federal register seeking to delay parts or all of the regulations after the rule has been finalized.

Title: Waste Prevention, Production Subject to Royalties, and Resource Conservation (Methane Rule)

Department/Agency: DOI, BLM

RIN: 1004-AE14

Description: Trump administration postponed the rule's requirements with 2018 deadlines¹⁵ and proposed rule to delay all compliance until 2019.¹⁶

Title: Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category

Department/Agency: EPA

RIN: 2040-AF14

Description: Trump administration postponed compliance dates that haven't yet passed in April pending judicial review.¹⁷

Delayed Regulations

Delayed regulations are those that have been fully delayed following the publication of the final rule. Here, both have been delayed through the rulemaking process.

Title: Amendments to Risk Management Program

Department/Agency: EPA

RIN: 2050-AG82

Description: Trump administration postponed rule until February 2019 and is considering further action.¹⁸

Title: Miscellaneous changes to pipeline safety regulations

Department/Agency: DOT, PHMSA

RIN: 2137-AE59

¹⁵ Waste Prevention, Production Subject to Royalties, and Resource Conservation; Postponement of Certain Compliance Dates. <https://www.gpo.gov/fdsys/pkg/FR-2017-06-15/pdf/2017-12325.pdf>.

¹⁶ Waste Prevention, Production Subject to Royalties, and Resource Conservation; Delay and Suspension of Implementation Dates for Certain Requirements. <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201704&RIN=1004-AE54>,

¹⁷ Postponement of Certain Compliance Dates for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category. <https://www.federalregister.gov/documents/2017/04/25/2017-07811/postponement-of-certain-compliance-dates-for-effluent-limitations-guidelines-and-standards-for-the>.

¹⁸ Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date. <https://www.federalregister.gov/documents/2017/06/14/2017-12340/accidental-release-prevention-requirements-risk-management-programs-under-the-clean-air-act-further>.

Description: Obama administration delayed indefinitely in response to petitions for reconsideration.¹⁹

Stayed

Stayed regulations are those that are suspended through court rulings.

Title: Clean Water Rule: Definition of “Waters of the United States” Under the Clean Water Act

Department/Agency: EPA

RIN: 2040-AF30

Description: The rule was stayed by the U.S. Court of Appeals in 2015,²⁰ and under the Trump administration, the EPA issued an order re-codifying pre-WOTUS definition will pursue rulemaking to re-evaluate.²¹

Title: Carbon Pollution Emission Guidelines for Existing Stationary Sources-Electric Utility Generating Units (Clean Power Plan)

Department/Agency: EPA

RIN: 2060-AR33

Description: Supreme Court stayed the regulation in February 2016.²²

Withdrawn

Withdrawn regulations are rules that have not been finalized, and no further regulatory action is being taken.

Title: Air Quality Control, Reporting, and Compliance

Department/Agency: DOI, BOEM

RIN: 1010-AD82

Description: Secretary of the Interior Ryan Zinke ordered the agency to “cease all activities for promulgating the” rule May 1, 2017.²³

Title: Carriage of Conditionally Permitted Shale Gas Extraction Wastewater in Bulk

Department/Agency: DHS, U.S. Coast Guard

RIN: 1625-ZA31

Description: Obama administration withdrew the “proposed policy letter” in February 2016.²⁴

¹⁹ Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations: Response to Petitions for Reconsideration. <https://www.federalregister.gov/documents/2015/09/30/2015-24763/pipeline-safety-miscellaneous-changes-to-pipeline-safety-regulations-response-to-petitions-for>.

²⁰ State of Ohio et al. v. U.S. Army Corps of Engineers et al. October 9, 2015. <http://www.opn.ca6.uscourts.gov/opinions.pdf/15a0246p-06.pdf>.

²¹ Definition of ‘Waters of the United States’- Recodification of Pre-Existing Rules. <https://www.federalregister.gov/documents/2017/07/27/2017-13997/definition-of-waters-of-the-united-states-recodification-of-pre-existing-rules>.

²² West Virginia et al. v. EPA et al. February 9, 2016. https://www.eenews.net/assets/2016/02/09/document_pm_03.pdf.

²³ Secretary of the Interior. Order No. 3350. <https://www.doi.gov/sites/doi.gov/files/press-release/secretarial-order-3350.pdf>.

²⁴ Carriage of Conditionally Permitted Shale Gas Extraction Waste Water in Bulk. <https://www.federalregister.gov/documents/2016/02/23/2016-03674/carriage-of-conditionally-permitted-shale-gas-extraction-waste-water-in-bulk>.

Title: Oil and Gas Leasing; Royalty on Production, Rental Payments, Minimum Acceptable Bid; Bonding Requirements, and Civil Penalty Assessments

Department/Agency: DOI, BLM

RIN: 1004-AE41

Description: The Office of Management and Budget's reginfo.gov site says the rule is "withdrawn-no further action scheduled" as of March 2016.²⁵

Repealed

Repealed regulations refers to finalized regulations that have been rescinded or removed through legislative or regulatory action. Below, Congress repealed two of the rules using the Congressional Review Act, while the Trump administration repealed the third using the rulemaking process.

Title: Disclosure of Payments by Resource Extraction Issuers

Department/Agency: SEC

RIN: 3235-AL53

Description: Repealed through the Congressional Review Act in 2017.²⁶

Title: Resource Management Planning (Planning 2.0)

Department/Agency: DOI, BLM

RIN: 1004-AE39

Description: Repealed through the Congressional Review Act in 2017.²⁷

Title: Federal Oil and Gas Valuation and Federal and Indian Coal Valuation

Department/Agency: DOI, ONRR

RIN: 1012-AA13

Description: Repealed through regulatory process, effective September 6, 2017.²⁸

²⁵ Oil and Gas Leasing; Royalty on Production, Rental Payments, Minimum Acceptable Bid; Bonding Requirements, and Civil Penalty Assessments. <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201604&RIN=1004-AE41>.

²⁶ Joint Resolution Providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Securities and Exchange Commission relating to "Disclosure of Payments by Resource Extraction Issuers." <https://www.congress.gov/115/plaws/publ4/PLAW-115publ4.pdf>.

²⁷ CRA Disapproval of BLM Planning 2.0 Rule. <https://www.congress.gov/congressional-record/2017/03/08/senate-section/article/S1686-3>.

²⁸ Repeal of Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform. <https://www.gpo.gov/fdsys/pkg/FR-2017-08-07/pdf/2017-16571.pdf>.