

Testimony of David L. Bernhardt
Deputy Secretary of the Department of the Interior
Before the
Subcommittee on the Interior, Energy, and the Environment and
the Subcommittee on Intergovernmental Affairs
Committee on Oversight and Government Reform
U.S. House of Representatives

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Thank you for inviting me to testify before you today on the Department of the Interior's progress in implementing President Trump's regulatory reform Executive Orders 13771, Reducing Regulation and Controlling Regulatory Costs, and 13777, Enforcing the Regulatory Reform Agenda. I ask that my entire written statement be incorporated into the record.

Chairmen Farenthold and Palmer, and Ranking Members Plaskett and Demings, I am David Bernhardt. I serve as the Deputy Secretary of the Department of the Interior (Department or Interior). In addition to my role as the Department's Chief Operating Officer, I also serve as Interior's Regulatory Reform Officer.

At Interior, we are acutely aware that President Trump, even as a candidate, clearly communicated a vision of empowering the private sector, as well as state and local governments, by unleashing American exceptionalism and economic growth through reducing unnecessary and burdensome regulation while maintaining environmental protection and public health. At the same time, we are committed to ensuring that regulation that is necessary to advance our conservation legacy will remain in place.

If you were to go back and look at the President's speeches you would find that, during the campaign, he clearly articulated that certain regulations related to the Department would be reviewed. As President, he has followed through on those statements with clear direction in executive orders and Presidential memoranda. We intend to ensure that we fulfill his campaign commitments and meet his direction, provided we have discretion under the law to do so. In addition, we are leaning forward to ensure that we move with due pace while meeting our legal requirements. You will see this when you review the upcoming unified fall regulatory agenda.

Frankly, our progress and pace to date on reducing regulatory burdens has benefited greatly from our collaboration with Congress and Congressional efforts to enact legislation under the Congressional Review Act. The Congressional Review Act was applied to three Interior rulemakings during the first session of this Congress, which were:

- the Stream Protection Rule, promulgated by the Office of Surface Mining, Reclamation and Enforcement (signed by the President on February 16, 2017);
- Non-Subsistence Take of Wildlife and Public Participation and Closure Procedures on National Wildlife Refuges in Alaska, U.S. Fish and Wildlife Service (signed by the President on April 3, 2017); and

- the Resource Management Planning Rule, Bureau of Land Management (BLM) (signed by the President on March 27, 2017).

Congress's decision to utilize the Congressional Review Act was important. It avoided imposing needless regulatory burdens on the American public while also freeing up the Administration's time to address other areas of focus.

At Interior, we administer the activities that take place on 1/5 of all the land in the United States, as well as certain regulatory programs Congress has entrusted to us that are not related to the lands we manage. We know that the substance, the procedure, and the pace of our decision-making can have a significant impact on a wide variety of activities. We manage more than 500 million acres of Federal lands, over 900 parks and wildlife refuges, and a billion submerged offshore acres. We collect on average over \$10 billion in annual mineral revenues. Millions of people visit Interior-managed lands each year for camping, hiking, hunting, and other outdoor recreation opportunities. Departmental bureaus also provide access to public lands for energy development and manage rural water projects that are a lifeline and economic engine for many communities in the West.

Obviously, President Trump has actively sought to establish an agenda focused on economic growth. Executive Orders (E.O.) 13771 and 13777 are keystones of the President's regulatory reform efforts.

Generally, E.O. 13771 established the principles that regulatory burdens on the American people should be accounted for and limited, including by offsetting any new significant rule with the elimination of costs associated with two existing regulations.

E.O. 13777 required agencies to establish a Regulatory Reform Task Force and appoint a Regulatory Reform Officer to lead the Task Force's regulatory reform efforts.

The Department's Regulatory Reform Task Force was established on March 15, 2017. The Task Force meets monthly to evaluate existing regulations and provide recommendations to the Secretary regarding their repeal, replacement, or modification. The Task Force focuses on regulations that: (1) place unnecessary burdens on the economy or the American people; (2) are outdated, ineffective, or unnecessary; or (3) are incompatible with regulatory reform principles or directions established in E.O. 13771 and 13777.

To facilitate the Task Force's progress, Interior has invited public input to identify important areas of focus. We have received comments from a wide range of individuals and entities, including the environmental nonprofit community. In fact, since we published a Federal Register notice on June 22, 2017 (82 FR 28429), asking the public for ideas to lessen regulatory burdens, we have received approximately 215 public comments related to this effort.

The Task Force reviews and discusses comments received every month, and uses those comments as part of a deliberative process to determine areas of further agency action. In addition, we have also established a website (<https://www.doi.gov/regulatory-reform>) to

periodically provide information to the public on regulatory reform and encourage the public to share ideas on specific regulations that should be repealed, updated, or otherwise improved.

At the Department, under Secretary Zinke's leadership, we are focused on reducing unnecessary regulatory burdens on the American people. After a thorough review of existing regulations planned for publication, we removed 154 regulatory actions from the Spring 2017 Agenda of Regulatory and Deregulatory Actions. This reduced our previous inventory of 321 actions by almost half. Interior reported 15 deregulatory actions in fiscal year 2017 and 28 deregulatory actions are anticipated to be scheduled for fiscal year 2018.

The cost savings of these deregulatory actions have not yet been finalized, but are currently projected to save American taxpayers well in excess of a billion dollars, expressed as net present value.

Although previous administrations have claimed that progress would be made on reducing unneeded regulation, regulatory activity across the Federal government has grown dramatically. At Interior, we are focused on avoiding that outcome. We need to remember that in 1950, the Code of Federal Regulations was about 10,000 pages in length; by 2016, it had grown to nearly 200,000 pages.

This increase in volume has expanded the bureaucratic burden on the American people, on innovation, and on our economy. The Council of Economic Advisers has estimated that these regulatory hurdles reduce our nation's Gross Domestic Product by approximately one percent per year, or about \$10,000 per American worker. In reality, these numbers represent jobs not created, families put at financial risk, the loss of American competitiveness both at home and in the international markets, and a growing Federal debt.

We are focusing our regulatory and deregulatory priorities on:

- Promoting American energy and energy independence;
- Increasing outdoor recreation opportunities for all Americans;
- Enhancing conservation stewardship in ways that strengthen or minimize burdens on the economy;
- Improving management of species and their habitats; and
- Upholding trust responsibilities to the Federally-recognized tribes and Alaska Natives by addressing the challenges of economic development that they face.

Let me mention our activities with regard to just a few specific Departmental policies. In his very first day in office, Secretary Zinke eliminated the needless ban on lead ammunition and fishing tackle in national wildlife refuges that was put in place just days before the end of the previous administration. As noted in Order 3346, a review of that ban and the process by which it was promulgated showed that it was not mandated by any existing statutory or regulatory requirement and that it was issued without significant communication, consultation, or coordination with affected stakeholders. Secretary Zinke said that day that outdoor recreation is about both our heritage and our economy and generates thousands of jobs and billions of dollars in economic activity.

Given President's Trump's focus on energy dominance, one significant focus for the Department has been encouraging responsible energy development. Executive Orders 13783 and 13795 establish a foundation that encourages domestic energy development that will ensure our nation's energy security and economic vitality for decades to come. E.O. 13783 directed agencies to immediately review and report on all agency actions that potentially burden the safe, efficient development of domestic energy resources. In response, the Department released the "Review of the Department of the Interior Actions that Potentially Burden Domestic Energy" (Energy Burdens Report) on October 25, 2017. The Energy Burdens Report identified specific rules and regulations that hamper domestic energy development. A copy of the report has been submitted for the record and is publicly available on the Department's website (https://www.doi.gov/sites/doi.gov/files/uploads/interior_energy_actions_report_final.pdf).

Indeed, another of Secretary Zinke's earliest actions was to reverse the Obama administration's coal moratorium, which paused coal leasing on Federal lands. Prior to the leasing moratorium, the BLM had an inventory of 45 Lease By Applications (LBAs) and Lease Modification Applications encompassing a combined acreage of 84,649 acres and containing over 2.8 billion tons of Federal coal. Since the lifting of the moratorium, the BLM has received three new applications for a combined additional acreage of 2,230 acres and 15.3 million tons of coal. The BLM has also contacted companies with existing applications to confirm their continued interest. As a result, the BLM has since processed 5 LBAs and leased a significant tract of Federal coal in Utah, Greens Hollow tract, allowing the largest coal miner in the State, Bowie Resources, LLC, to maintain production at one of the State's largest underground coal mines, the Sufco Mine.

We are also looking at ways to streamline leasing and permitting processes for hardrock mining, while at the same time addressing the backlog of mining notices, exploration plans, and mine plans. We intend to do this by ensuring that adequate resources are available to address notice-level and plan-level work for exploration and mining, and to efficiently processing new applications for hardrock mining. It is also important to enhance coordination with states, tribes, and other agencies, and we will do that, which we believe will result in streamlined review and approval of the National Environmental Policy Act (NEPA) documents related to hardrock mining.

In conclusion, at the heart of our regulatory reform agenda is President Trump's and Secretary Zinke's recognition that the Department of the Interior has a responsibility to be a good neighbor to those that we serve. This includes creating and implementing a regulatory framework that serves both our conservation and multiple use missions. Rather than picking winners and losers, the public lands we manage ought to serve every aspect of the public's interest. We have been and will continue to be relentless in our efforts to minimize regulatory and permitting uncertainty, but we will do so while maintaining our important environmental and safety standards.

I appreciate the opportunity to testify before your subcommittees this morning on the Department's progress on regulatory reform, and I look forward to answering any questions that you might have.