

**REGULATORY REFORM TASK FORCE CHECK-IN  
PART III**

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**JOINT HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
THE INTERIOR, ENERGY, AND ENVIRONMENT  
AND THE  
SUBCOMMITTEE ON  
INTERGOVERNMENTAL AFFAIRS  
OF THE  
COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
HOUSE OF REPRESENTATIVES  
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## REGULATORY REFORM TASK FORCE CHECK- IN PART III

Wednesday, November 29, 2017

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON THE INTERIOR, ENERGY, AND  
ENVIRONMENT, JOINT WITH THE SUBCOMMITTEE ON  
INTERGOVERNMENTAL AFFAIRS,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
*Washington, D.C.*

The subcommittees met, pursuant to call, at 10:05 a.m., in Room 2154, Rayburn House Office Building, Hon. Blake Farenthold [chairman of the Subcommittee on the Interior, Energy, and Environment] presiding.

Present from Subcommittee on the Interior, Energy, and Environment: Representatives Farenthold, Palmer, Gianforte, Plaskett, and Raskin.

Present from Subcommittee on Intergovernmental Affairs: Representatives Palmer, Grothman, Duncan, Massie, Walker, Demings, DeSaulnier, and Clay.

Mr. FARENTHOLD. The Subcommittee on the Interior, Energy, and the Environment and the Subcommittee on Intergovernmental Affairs will now come to order.

Without objection, the chair is authorized to declare a recess at any time.

I would now like to recognize myself for five minutes for an opening statement.

Good morning. Today, we are going to continue our hearing series on the work of agency Regulatory Reform Task Forces, and we welcome representatives from the Department of the Interior, the Environmental Protection Agency, and the Department of Energy, to provide us with an update on their rollback of excessive, duplicative, and outdated regulations.

Earlier this year, President Donald Trump issued Executive Orders 13771 and 13777 as part of a push to reduce the burdens that Federal regulators impose upon Americans. These executive orders required Federal agencies to repeal two regulations for every one new regulation they would like to impose. To help meet this requirement, the orders directed Federal agencies to establish a Regulatory Reform Task Force to review regulations and identify the ones that are unnecessary, impose excessive costs, or limit job growth.

Over the last two months, the committee has heard from a number of agencies about the progress they have made on implementing these executive orders and their unprecedented efforts to

take a fresh look at how our government regulates. My colleagues and I have been encouraged by what we have heard. For example, the Department of Education's task force uncovered a whopping 1,772 guidance documents, 600 of which were out of date or were interpreting laws that were no longer in effect. The Department of Agriculture reported that during its first round of review, its task force, composed almost entirely of career staff, identified over 275 regulatory and administrative recommendations to increase agency efficiency and reduce duplication.

Agencies also testified how they have been able to reduce the cost and the burden of their regulations while not compromising important health and safety considerations. For example, the folks at the Department of Health and Human Services testified that they are fulfilling their mission to remove burdens on patient-provider relationships. HHS personnel are also reassessing healthcare quality measures to ensure a focus on safety.

The Department of Transportation representatives testified that, as a result of their review, DOT is reducing unnecessary regulatory burdens and barriers to new technologies, and saving the American public significant time and money, while actually improving the safety and benefits of its regulations.

This check on the massive regulatory state is long overdue. Our hardworking American taxpayers, landowners, small businesses, and individual consumers are counting on these agencies to get it right. As such, I am confident my colleagues will respect the value of these agencies' efforts and our witnesses' time, and please remain focused on helping the committee evaluate the work of these task forces.

To our witnesses today, I look forward to hearing about what your task forces have accomplished and how your work will encourage a more productive relationship with the regulated community, facilitate safe utilization of our resources, and incorporate the voices of our States, localities, and tribes, and most importantly, save the American people time, money, and frustration, which concludes my opening remarks.

Mr. FARENTHOLD. I will now recognize the ranking member of the Subcommittee on Intergovernmental Affairs, Mrs. Demings, for five minutes for her opening statement.

Mrs. DEMINGS. Good morning, and thank you, Chairman Farenthold—and I also want to recognize Chairman Palmer—for convening this hearing today. I would also like to thank Ranking Member Plaskett, who has joined us this morning, and thank you to all of the witnesses for being with us.

This is the third hearing our subcommittees have had on Regulatory Reform Task Forces, and I am pleased we have had an opportunity to review the actions of three agencies which play an important role in ensuring clean water and air, promoting renewable energy, and reducing greenhouse gas emissions.

However, it is unfortunate that the agencies here today, the Environmental Protection Agency, the Department of Interior and Energy seem to be backing away from these responsibilities. I think it is important for us, Members of Congress, agency officials, and the public at large to remember the conditions that led a Repub-

lican President to create some of the very agencies before us today in the first place.

There are stories from across the country—I know you know them well—of smog so thick the morning sun could not be seen and rivers that change colors depending on the dye used that day. Outside Tampa—I'm from Florida—Lake Thonotosassa had the largest fish kill in history, 26 million, because it was so polluted by discharges from four food processing plants. In my district, just a mile from the town of Zellwood, a 57-acre parcel of wetlands was used from 1963 to 1980 for a drum recycling company to store a deadly mixture of chemicals just a short walk away from communities that developed after World War II. The contamination is still being modified and remediated by Federal, State, and local agencies.

Just as the men and women who served before us understood the importance of safe, clean water, air, and safe land, we, too, must see the risk to future generations from climate change and act now to avert catastrophe. Unfortunately, I fear that recent administration actions indicate an abdication of these responsibility.

EPA, for example, has proposed repealing the Clean Power Plan, which provides States flexibility to limit carbon dioxide emissions. Without the Clean Power Plan, the United States will continue to release unsustainable levels of carbon dioxide into the atmosphere. Not only will repealing the Clean Power Plan negatively impact climate change, repealing it without replacing it with another plan to limit carbon dioxide will leave EPA in violation of the Clean Air Act.

EPA is not alone in proposing rulemaking that will negatively impact climate change. The Department of Energy has called a so-called grid resiliency pricing rule, ostensibly to ensure that the power grid is resilient enough to meet demand that any disasters might befall it. The rule is in fact a giveaway to fossil-fuel-based power plants. By providing aid to power plants that maintain a 90-day onsite fuel supply, the proposed rule would grant a ratepayer subsidy to power plants which are not sustainable.

The Department of Energy similarly has proposed climate change-impacting rules. The Bureau of Land Management within Interior has proposed delaying the Obama administration's methane waste rules. The rules require oil and gas companies to submit plans to cut waste, measure and report gas flared from wells, and dispose of gas that reaches the surface during drilling. Not only is this prudent management of our public lands, America should get our money's worth from the natural resources below ground, and we should ensure that nature is not left spoiled from drilling, but it also impacts climate change.

The outcomes of the administration's actions are apparent and real, no matter how great some wish to deny their cause. Indeed, in Florida we have seen sea levels increasing so steep that coastal communities like Miami Beach are investing billions to stay above water.

I am, however, grateful to the chairman for calling this hearing so we can further investigate the reasons behind administrative actions and the policy goals they serve and provide comment and insight on how agencies can more effectively serve the American people.

I do look forward to the discussion, and thank you so much, Mr. Chairman. I yield back.

Mr. FARENTHOLD. Thank you very much.

I will now recognize the chairman of the Intergovernmental Affairs Subcommittee, Mr. Palmer, for five minutes for his opening statement.

Mr. PALMER. I thank the chairman and the ranking members for the subcommittees for participating in this hearing, and I thank the witnesses for being here.

This Administration has seized upon a real opportunity to undo much of the damage our government has created through years of overregulation. Many of us have seen firsthand the consequences of excessive regulation by way of lost jobs and strained economic conditions and stifled growth in our districts and really in the entire American economy.

There has been a major decline in business startups. In fact, the Gallop organization put out a report that said that prior to 2008, there were 100,000 more businesses starting up than were closing, but by 2014, there were 70,000 more businesses closing than starting up. And this was a period of unprecedented overregulation.

My subcommittee has heard countless stories from States, local governments, and individuals about their inability to make decisions that are most important to them simply because their hands are tied by the cost or logjam or the uncertainty created by inconsistent and often contradictory Federal regulations. The issue has simply gotten out of hand. Even agencies themselves have testified they were “amazed” at the number of guidance documents, policy memos, and other regulatory documents that they maintain once they began their review.

As the chairman noted, it has been encouraging to hear from agency representatives that they are working to end this practice of overregulation and start repairing the relationship that the government has with its people, beginning with the elimination of obsolete and duplicative and contradictory regulations.

It is my understanding that tomorrow the full committee will be considering a bill by our colleague, Mark Meadows from North Carolina, which seeks to codify the administration’s regulatory reform proposals. I look forward to that discussion.

I appreciate the input our agency witnesses have provided in these hearings to show how these policies are yielding real results for the public by reducing not only the number of Federal regulations and guidance documents, but also the costs and burdens that Americans face every day, which amount to trillions of dollars every year. In fact, last year alone, regulations cost the average household almost \$15,000, which, I’d like to point out, places a disproportionate burden on lower-income households, similar to what I grew up in.

Agencies report that in just the first half of this year, their task forces have identified and withdrawn thousands of out-of-date, duplicative, burdensome, and costly regulations and policy documents.

And I do want to comment—not to put any burden on our witnesses—the enthusiasm with which the people have come in and testified about what they are doing. This is not policy work, we are

not asking you to legislate, and we commend you for what you are doing.

We have a remarkable opportunity here before us to modernize and streamline the Federal Government's approach to regulation. Mr. Jitinder Kohli, who led the United Kingdom's one-in and two-out regulatory reform initiative, testified at our first hearing that this is "fundamentally about culture change"—it really is—and "changing the culture of government." I couldn't agree more. Getting our government to take a fresh look at how it operates and change its behavior is obviously no small task.

And, again, I commend you for the enthusiasm with which you have taken on this task because I really believe that you are trying to do what is right for the American people, and I am excited about what you are doing.

I look forward to hearing from each of our witnesses today on how their deregulatory efforts will have a lasting effect and how we can all work together to make the most of your progress and to do the most for the American people.

With that, Mr. Chairman, I yield back.

Mr. FARENTHOLD. Thank you very much.

I will now recognize the ranking member of the Interior, Energy, and Environment Subcommittee, Ms. Plaskett, for five minutes for her opening statement.

Ms. PLASKETT. Thank you so much, Mr. Chairman, and thank you all for being here this morning. Thank you, Chairman Palmer and Ranking Member Demings as well for holding this very important hearing.

At President's Trump's direction, political appointees at Federal agencies are repealing regulations that protect the health, environment, and pocketbooks of average Americans. And worse, it would appear they're doing so under the cloak of darkness. This lack of transparency is very troubling and is depriving the American people of their right to participate in the rulemaking process.

Let's take, for example, the Environmental Protection Agency. Administrator Scott Pruitt is not fully disclosing details about which protections he is planning to repeal and who is being consulted in that decision-making. This is especially concerning since it has been reported that members of the task force have previously had ties to corporations and corporate-sponsored organizations which have blocked efforts to clean up our air and water. Knowing if this is true or not would be very important to this body, as well as to the American public.

At the Department of Interior and Department of Energy, Secretary Ryan Zinke and Secretary Rick Perry respectively are not fully open about membership on their task forces that President Trump is using to dismantle lifesaving regulations.

Much is at stake. Americans just recently in Texas, Florida, Puerto Rico, and the U.S. Virgin Islands have all recently endured three major hurricanes in succession, and scientists unanimously believe that climate change contributed to their severity of those hurricanes. Just 10 days before Hurricane Harvey hit Texas, President Trump signed an executive order revoking regulations that, quote, "would have required the Federal government to take into account the risk of flooding and sea level rise as a result of climate

change when constructing new infrastructure and rebuilding after disaster.” My constituents, the people in Puerto Rico, Texas, and Florida, and other areas which have suffered in the past from devastating hurricanes and will unfortunately continue to do so want our government to take into account climate change when building infrastructure. This would just appear to be a commonplace factor in the decision-making, and it will save lives. But it would appear that President Trump is rolling back this lifesaving protection and many others.

I look forward to hearing this morning from the Environmental Protection Agency, Department of Energy, and the Department of Interior, and I hope they will be forthcoming about what protections they are targeting for repeal, which companies would benefit, what are the factual justifications for doing so, how those task forces are composed because the American people have a right to know what their government is doing.

Thank you very much, Mr. Chairman.

Mr. FARENTHOLD. Thank you.

At this point I am pleased to introduce our witnesses. From the Department of Interior we have the Honorable David Bernhardt, and he is the deputy secretary there at DOI. We have Ms. Brittany Bolen. She is the deputy associate administrator of the Office of Policy at the Environmental Protection Agency and a former intern on this committee. She will get to experience what it is like to be on the other side of the table today. And we have Mr. Daniel Simmons, the principal deputy assistant secretary of the Office of Energy Efficiency and Renewable Energy at the Department Of Energy. Welcome to you all.

Pursuant to committee rules, all witnesses will be sworn in before they testify. Would you please stand and raise your right hand?

[Witnesses sworn.]

Mr. FARENTHOLD. Let the record reflect all witnesses answered in the affirmative, and you all may be seated.

In order to allow time for discussion and questions, we are going to ask that you each limit your testimony to around five minutes. Your entire written statement will be made a part of the record. As a reminder, the clock in front of you shows your remaining time, and the light will turn yellow when you have 30 seconds left and red when your time is up. Please also remember to turn on your microphones. We are budget-conscious here. We didn't buy the most expensive microphones, so you actually do need to bring them close to your mouth so we can all hear you very well.

So we will start out with Mr. Bernhardt, you are recognized for five minutes, sir.

## **WITNESS STATEMENTS**

### **STATEMENT OF DAVID BERNHARDT**

Mr. BERNHARDT. Good morning. Thank you for inviting me to testify before you today regarding the Department of the Interior's progress in implementing President Trump's regulatory reform Executive Orders 13771 and 13777. I serve as the Deputy Secretary to the Department of the Interior, and 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, local, and tribal governments by unleashing American exceptionalism and economic growth through reducing unnecessary and burdensome regulation, while maintaining environmental protection and public health. At Interior, we are also committed to ensuring that the regulation that is necessary to advance our conservation legacy remains 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 of the Interior would be reviewed. In addition, as President, he has followed through with this—with 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 to the extent the law provides us the authority 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 fall agenda. Frankly, our measurable progress and pace to date benefited greatly from the collaborative experience of working with Congress to enact legislation under the Congressional Review Act. The Congressional Review Act was applied to three Interior rulemakings. Congress' decision to utilize the review act was important. It avoided imposing needless burdens on the American public, while also freeing up the administration's time to address other important areas of focus.

At Interior, we administer the activities that take place on 1/5 of all of the land of the United States, as well as the intercontinental shelf, along with certain regulatory programs Congress has entrusted to us that are not related to the lands that we manage—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. President Trump has actively sought to establish an agenda focused on economic growth. Executive Orders 13771 and 13777 are keystones of his regulatory reform efforts.

The Department's Regulatory Reform Task Force was formed on March 15, 2017. The task force meets monthly to evaluate existing regulations and provide recommendations to the Secretary regarding the repeal, replacement, or modification of such regulations. The task force focuses on regulations that place unnecessary burdens on the economy or the American people, that are outdated, ineffective, or unnecessary, are—or are incompatible with the regulatory reform principles or directions established in Orders 13771 and 13777.

To facilitate the task force activities, we have 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. Since we published a Federal Register notice asking for—the public for ideas to lessen the regulatory burdens, we have received approximately 215 comments. In addition, we have established a website 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.

So far, after a review of existing regulations planned for publication, we have removed approximately 154 regulatory actions from the spring agenda. This reduced our previous inventory of 321 actions by almost half. Interior reported 13 deregulatory actions for fiscal year 2017 and 28 are planned for 2018.

At the heart of our regulatory reform agenda lies the President and Secretary's recognition that the Department of the Interior has a responsibility to be a good neighbor to those we serve. This responsibility includes creating and implementing a regulatory framework that serves both our conservation and our multiple-use missions. We have been and we 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 look forward to answering any questions you might have. Thank you.

[Prepared statement of Mr. Bernhardt follows:]

**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**

November 29, 2017

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](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.

Mr. FARENTHOLD. Thank you.

Ms. Bolen, you are now recognized for five minutes.

#### **STATEMENT OF BRITTANY BOLEN**

Ms. BOLEN. Good morning, Chairmen Farenthold and Palmer, Ranking Members Plaskett and Demings, and members of the subcommittees. Thank you for holding this important hearing on agency implementation of the President's executive orders on regulatory reform. My name is Brittany Bolen, and I serve as deputy associate administrator for policy at the U.S. Environmental Protection Agency. I also serve on the EPA's Regulatory Reform Task Force. I'm grateful for the opportunity to testify on the work of the task force under the leadership of Administrator Scott Pruitt to engage in meaningful regulatory reform that advances the Agency's core mission of protecting human health and the environment.

EPA's regulatory reform efforts over the last year have largely been driven by two executive orders, 13771 and 13777. In implementing these executive orders, EPA has emphasized three goals, which I would like to discuss today: transparency, public participation, and progress.

First, EPA has enhanced the level of transparency for its regulatory reform work. As a first step, Administrator Pruitt issued an agency-wide memorandum listing the names of the task force members and providing an open account of the specific direction to the task force and EPA program offices to solicit public input and the process for evaluating existing regulations. Then, in April, EPA launched a new regulatory reform webpage to provide the public comprehensive information on the task force, these executive orders, and opportunities for public input. The Agency has periodically updated this website and is committed to continue to do so to keep the public well-informed of our actions.

In regards to public participation, EPA has provided an unprecedented level in its regulatory reform work. Beginning in April, EPA offices invited more than 200,000 stakeholders to participate in 11 public meetings and teleconferences on regulatory reform. In order to provide an open and fair opportunity for all members of the public to provide input, EPA issued a Federal Register notice, opening a formal docket with a 30-day public comment period. In those 30 days, the EPA received a total of more than 460,000 public comments. While many of these comments were form letters, over 63,000 were unique individual comments which set an EPA record. These comments range from a few pages dedicated to one rule to dozens of pages providing detailed information regarding several rules.

EPA is continuing to review and carefully analyze these comments, and any specific regulations that the Agency may review or may consider revising will indeed provide further opportunity for public comment in accordance with the Administrative Procedure Act.

Underpinning all of this work is a commitment to achieving meaningful progress in air and water quality, land cleanup, and safe chemicals, while meeting the executive order deliverables to reduce unnecessary regulatory burdens on the American people. In accordance with Executive Order 13771, in fiscal year 2017 EPA

rules imposed no new net costs, and we finalized at least two deregulatory actions for each regulatory action. EPA expects the same for fiscal year 2018, but further details regarding specific regulatory and deregulatory plans for fiscal year 2018 will be in the forthcoming unified agenda to be published by the Office of Management and Budget. As EPA moves forward with its regulatory reform efforts, the Agency will continue to update the public and Congress with our progress.

Thank you again for this opportunity to testify on the work of EPA's Regulatory Reform Task Force. I appreciate the time I spent with bipartisan committee staff last month briefing them on the task force's work, and I look forward to answering your questions today.

[Prepared statement of Ms. Bolen follows:]

**TESTIMONY OF  
BRITTANY BOLEN**

**DEPUTY ASSOCIATE ADMINISTRATOR  
OFFICE OF POLICY  
U.S. ENVIRONMENTAL PROTECTION AGENCY**

**BEFORE THE**

**SUBCOMMITTEE ON THE INTERIOR, ENERGY AND ENVIRONMENT AND  
SUBCOMMITTEE ON INTERGOVERNMENTAL AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON OVERSIGHT AND  
GOVERNMENT REFORM**

*Regulatory Reform Task Forces Check-In: Part III*

**November 29, 2017**

Good morning Chairman Farenthold, Chairman Palmer, Ranking Member Plaskett, Ranking Member Demings, and members of the Subcommittees. Thank you for holding this important hearing on agency implementation of the President's executive orders on regulatory reform. My name is Brittany Bolen, and I serve as Deputy Associate Administrator for the Office of Policy at the U.S. Environmental Protection Agency. In addition, I serve as a member of EPA's Regulatory Reform Task Force. I am grateful for the opportunity to testify on the work of the Task Force under the leadership of Administrator Scott Pruitt to fulfill the Agency's core mission of protecting human health and the environment while implementing these executive orders.

EPA's regulatory reform efforts over the last year have been driven by two executive orders – E.O. 13771 and E.O. 13777. First, in January, the President issued E.O. 13771 on Reducing Regulation and Controlling Regulatory Costs, also known as the “2 for 1” executive order, which instituted a policy for agencies to identify two regulations for repeal for each new regulation. For fiscal year 2017, the executive order directed that the total incremental costs of

all new regulations be no greater than zero, unless otherwise required by law or consistent with advice provided by the Office of Management and Budget. For fiscal year 2018 and on, agencies were directed to establish a regulatory budget in coordination with OMB.

In February, the President issued E.O. 13777 on Enforcing the Regulatory Reform Agenda, which established a federal policy for agencies to reduce unnecessary regulatory burdens on the American people. Among other requirements, the executive order directed agencies to form a Regulatory Reform Task Force to implement E.O. 13771 and make recommendations on regulations that may be appropriate for repeal, replacement or modification. The executive order further provided the Task Force a targeted set of criteria on which to focus their evaluation and recommendations of existing regulations, including those that may be (1) outdated, unnecessary, or ineffective, (2) eliminate jobs, or inhibit job creation, (3) impose costs that exceed benefits, (4) are inconsistent with regulatory reform initiatives or policies, or (5) are inconsistent with the Information Quality Guidelines or other Presidential directives. In order to help identify such regulations, the executive order directed the Task Force to seek input from entities significantly impacted by the agency's regulations. In implementing these executive orders, the EPA's regulatory reform work has emphasized transparency, public participation, and progress.

#### **TRANSPARENCY**

EPA has initiated a transparent process for its regulatory reform work. As a first step towards implementing these executive orders, in March, Administrator Pruitt issued an agency-wide memorandum announcing the establishment of the Regulatory Reform Task Force and its membership. This memorandum further provided an open account of the specific directions to the Task Force and EPA program offices to solicit public input on our existing regulations and

make recommendations for those that may be appropriate for review per E.O. 13777. In April, Administrator Pruitt issued an agency-wide memorandum announcing the Task Force would also lead the Agency's implementation of the President's E.O. 13783 on Promoting Energy Independence and Economic Growth, which established a national policy to promote the responsible development of our energy resources while reducing unnecessary regulatory burdens and directs agencies to undertake several actions to further this goal.

In an effort to provide the public details of its regulatory reform work, in April, EPA launched a new regulatory reform webpage with information on the Task Force, the executive orders, and opportunities for input into the Agency's regulatory reform efforts. This webpage can be accessed at: <https://www.epa.gov/laws-regulations/regulatory-reform>. The Agency has already updated this webpage with additional information. Our next planned update to this webpage will follow publication of the Fall 2017 Semiannual Unified Regulatory Agenda by OMB and include information on our deregulatory actions.

#### **PUBLIC PARTICIPATION**

EPA has provided an enhanced level of public participation in its regulatory reform work. Pursuant to the Administrator's March memorandum on E.O. 13777, beginning in April, EPA offices invited more than 200,000 stakeholders to participate in nearly a dozen public meetings and teleconferences to solicit ideas for regulations that may be appropriate for reform. Subsequently, in order to provide an open and fair opportunity for all members of the public to provide input on existing regulations, EPA also issued a Federal Register notice opening a formal docket with a 30-day comment period. This docket can be accessed at: <https://www.regulations.gov/docket?D=EPA-HQ-OA-2017-0190>.

In total, EPA received more than 460,000 public comments. While many of these comments were form letters, over 63,000 were unique comments, which is an EPA record. These comments range from a few pages dedicated to a specific rule to dozens of pages of analysis and information related to numerous rules. This exercise has greatly assisted the Agency in identifying the universe of potential rules for review as required by the executive orders. Given the volume, EPA is continuing to carefully analyze the comments. In addition, EPA is reviewing the public feedback received in other dockets, including the 170 comments the U.S. Department of Commerce received in response to its request for information per the Presidential memorandum on Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing. Any specific regulations that the EPA may review and consider revising will, indeed, provide further opportunity for public comment in accordance with the Administrative Procedure Act.

#### **PROGRESS**

Underpinning these efforts is a commitment to achieving meaningful progress in protecting human health and the environment while meeting the executive order deliverables to reduce unnecessary regulatory burden. For instance, in accordance with E.O. 13771, for fiscal year 2017, EPA rules imposed no new net costs. EPA expects to impose no additional net costs in fiscal year 2018 as well. Details regarding EPA's fiscal year 2018 regulatory plans will be included in the upcoming Fall 2017 Semiannual Unified Regulatory Agenda. As EPA moves forward with its regulatory reform efforts, the Agency looks forward to continuing to update the public and Congress on our progress.

EPA's regulatory reform efforts complement Administrator Pruitt's Back-to-Basics agenda. As Administrator Pruitt has said, regulations ought to make things regular. The Back-

to-Basics agenda ensures the Agency is actually providing that regularity through a commitment to three principles: rule of law, process, and cooperative federalism. First, EPA must operate within the legal parameters established by Congress. Second, EPA must have a process in place that is fair, transparent, and predictable that leads to regulations that are scientifically and economically sound, and that advance environmental improvements without unnecessarily hampering growth and jobs, as consistent with law. Finally, consistent with the principle of cooperative federalism embedded in environmental statutes, EPA must actively engage with our co-regulatory partners in state, local and tribal governments to achieve the most meaningful environmental results. Indeed, the Agency's regulatory reform work over the last year demonstrates the success of the Administrator's Back-to-Basics agenda.

Thank you again for this opportunity to testify on the work of EPA's Regulatory Reform Task Force. I appreciated the time I spent with bipartisan committee staff last month discussing our regulatory reform efforts. I look forward to answering your questions.

Mr. FARENTHOLD. Thank you very much.  
Mr. Simmons, your five minutes starts now.

**STATEMENT OF DANIEL R. SIMMONS**

Mr. SIMMONS. Thank you. Chairmen Farenthold, Palmer, Ranking Members Plaskett and Demings, and members of this—of the—of both subcommittees, thank you for the opportunity to testify today and for your interest in regulatory reform at the Department of Energy.

DOE is committed to reducing unnecessary, unreasonable, duplicative, and outdated regulatory burdens on American families and businesses. We are also committed to clean air, clean water, and continuing to improve the environment.

Earlier this year, the President issued several executive orders that have guided our regulatory reform efforts. The President issued Executive Order 13771, reducing regulatory—reducing regulation and controlling regulatory costs; Executive Order 13777, enforcing a regulatory reform agenda; and Executive Order 13783, promoting energy independence and economic growth.

Executive Order 13777 required the head of the—each head of each agency to designate an agency official as its regulatory reform officer and that a—the agency establish a Regulatory Reform Task Force. Following the directions in these orders, DOE formed a Regulatory Reform Task Force, and the DOE chief of staff was designated as the regulatory reform officer. The chief of staff delegated they regulatory reform officers to me, the principal deputy assistant secretary in the Office of Energy Efficiency and Renewable Energy.

To inform the work of the Regulatory Reform Task Force, DOE published a request for information in the Federal Register on May 30 seeking comment from the public on DOE's regulations. DOE received 132 separate comments from businesses, trade associations, advocacy groups, and other interested stakeholders. DOE also established a dedicated email box, [Regulatory.Review@HQ.DOE.gov](mailto:Regulatory.Review@HQ.DOE.gov), through which interested parties can communicate their regulatory reform ideas to DOE on an ongoing basis. In addition, upon request, DOE has met with interested party seeking to provide comments on DOE's regulatory reform activities, and we will continue to do so.

On October 24, Secretary Perry sent a report to the White House detailing the task force's findings in response to Executive Order 13783 on energy independence. That report was also published online. DOE's task force made the following recommendations: Number one, streamline LNG natural gas exports. Several commenters encouraged DOE to export—expedite the export of LNG. On September 1, DOE issued a proposed rule to provide faster approvals of small-scale natural gas exports, including LNG. The comment period for the proposed rule closed on October 16. DOE is currently reviewing the comments and plans to complete the rulemaking in the near future.

Number two, review our policies with regard to the national labs. DOE is the steward of 17 national labs, and it is critical that the important research and development work that occurs at the national lab is less encumbered by bureaucracy and that more of the

money goes to the actual research and development, to get to Congresswoman Demings' concerns about the environment. And we have identified several areas for reform that would permit the national laboratories to operate more efficiently, focusing more time and resources on their mission-critical work.

Number three, review DOE's implementation of the National Environmental Policy Act, NEPA. DOE received several comments that called for streamlining and simplifying the agency's regulations and internal operations related to NEPA. The goal is to improve the effectiveness and efficiency of DOE's compliance with NEPA in reviewing and approving permits.

And, number four, review DOE's appliance standards program. As required by statute, DOE implements minimum energy conservation standards and separate test procedures for more than 60 categories of appliances. The majority of the comments received from the public both in the request for information and in meetings concerned, number one, existing DOE energy conservation standards and test procedures; and two, the procedures DOE follows in issuing those regulations. Many commenters asked DOE to follow and review the so-called process rule. The process rule is a rule that describes the procedures, interpretations, and policies that guide DOE in establishing new or revised energy efficiency standards for consumer products.

DOE will also consider voluntary nonregulatory and market-based alternatives to standard-setting when supported by statute. To this end, yesterday, DOE published in the Federal Register a request for information seeking comment on potential market-based approaches such as those used to set average fuel economy standards for vehicles. Such approaches may reduce compliance costs and increase consumer choice while preserving or enhancing appliance efficiency.

DOE will continue to work with the public on the regulatory reform process as we will work to achieve the President's goal of reducing burdens on Americans, families, and businesses at the same time we work to continue to protect the environment. As DOE identifies additional areas for reform, the Department will provide more opportunities for public participation consistent with DOE's commitment to an open, transparent, and accountable rulemaking process.

I appreciate the opportunity to testify here today to explain DOE's efforts to achieve meaningful regulatory reform. I look forward to answering any questions. Thank you very much.

[Prepared statement of Mr. Simmons follows:]

**Testimony of Daniel R Simmons  
Principal Deputy Assistant Secretary  
Office of Energy Efficiency and Renewable Energy  
Department of Energy  
Before the  
Subcommittee on Interior, Energy and Environment  
and the  
Subcommittee on Intergovernmental Affairs  
of the  
House Oversight and Government Reform Committee**

**November 29, 2017**

Chairs Farenthold and Palmer, Ranking Members Plaskett and Demings and members of both subcommittees, thank you for the opportunity to testify today and your interest in regulatory reform at the Department of Energy. DOE is committed to reducing unnecessary, unreasonable, duplicative, and outdated regulatory burdens on American families and businesses.

Earlier this year, the President issued several executive orders that have guided our regulatory reform efforts. On January 30, 2017, the President issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs." This Order requires that, unless prohibited by law, whenever an agency promulgates a new regulation, the agency must identify at least two existing regulations to be repealed. The Order also requires that for fiscal year 2017, the total incremental net cost of all new regulations, including repealed regulations, be no greater than zero, and that for fiscal year 2018 and thereafter, there be agency specific "regulatory budgets."

Additionally, on February 24, 2017, the President issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda." This Order requires the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO) and that each agency establish a Regulatory Reform Task Force. Finally, on March 28, 2017, the President signed Executive Order 13783, entitled "Promoting Energy Independence and Economic Growth. Among other things, EO 13783 requires the heads of agencies to review all existing regulations, orders, guidance documents, policies, and any other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

**Request for Information**

Following the directions in these Orders, DOE formed a Regulatory Reform Task Force. The DOE Chief of Staff was designated as the RRO, and the Chief of Staff delegated those responsibilities

to me, the Principal Deputy Assistant Secretary in the Office of Energy Efficiency and Renewable Energy (EERE). To inform the work of the Task Force, DOE published a Request for Information (or “RFI”) in the Federal Register on May 30, seeking input from the public and those significantly affected by DOE regulations. DOE received 132 separate comments from businesses, trade associations, advocacy groups, and other interested stakeholders and members of the public.

DOE has also established a dedicated email box – [Regulatory.Review@hq.doe.gov](mailto:Regulatory.Review@hq.doe.gov) – through which interested parties can communicate their regulatory reform ideas to DOE on an ongoing basis. In addition, upon request, DOE has met with interested parties seeking to provide input on DOE’s regulatory reform activities. DOE’s goal in taking these steps is to create a systematic method for identifying existing DOE rules that are obsolete, unnecessary, unjustified, or simply no longer make sense.

DOE knows that members of the public subject to our regulations are the ones most likely to have useful information and perspectives on the benefits and burdens of those requirements, as well as how regulatory obligations can be reformed to meet the Department’s statutory obligations while minimizing regulatory burdens. DOE will use the comments on the RFI, the meetings already held, and the input that continues to be received, to determine how to best conduct an analysis of existing DOE rules for potential reform, and develop insights on specific rules or Department-imposed obligations that should be altered or eliminated.

For any existing rule where DOE determines that modification or repeal would further the Department’s regulatory reform goals, DOE will, following all legal requirements, conduct and encourage public participation in all necessary rulemaking steps. These steps could include soliciting comment on an RFI or a notice of proposed rulemaking, or participating in a negotiated rulemaking process, as appropriate.

#### **Regulatory Reform Task Force Recommendations**

On October 24, Secretary Perry sent a report to the White House detailing the Task Force’s findings in response to EO 13783 on energy independence. This report was also published online<sup>1</sup>. The findings contained in the report are based on a review of the input received from the public, coupled with the work of the Task Force to identify internal and external agency actions that could potentially burden the development or use of domestically produced energy resources, as per EO 13783. DOE’s Task Force made the following recommendations:

- 1) Streamline Natural Gas Exports

Several commenters encouraged DOE to expedite exports of liquefied natural gas (LNG).

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<sup>1</sup> <https://www.energy.gov/sites/prod/files/2017/10/f38/EXEC-2017-003431%20Final%20EO%2013783%20dated%2010-24-17.pdf>

On September 1, DOE issued a proposed rule to provide faster approval of small-scale natural gas exports, including LNG. This measure will expedite the review and approval of applications to export small amounts of natural gas in the emerging small-scale LNG export market, and will facilitate the development of that market. The comment period for that proposed rule closed on October 16. DOE is currently reviewing the comments received and plans to complete the rulemaking in the near future.

2) Review National Laboratory Policies

DOE manages several National Laboratories that support the Department's energy, science, and nuclear non-proliferation missions. As part of our work to reduce regulatory burdens, the Task Force conducted a comprehensive review of operations and procedures at the National Labs, and identified several areas for reform that would permit the National Laboratories to operate more efficiently, focusing more time and resources on their mission-critical work.

3) Review National Environmental Policy Act (NEPA) Regulations

DOE received comments that called for streamlining and simplifying the agency's regulations and internal operations related to the National Environmental Policy Act (NEPA). The goal is to improve the effectiveness and efficiency of DOE's compliance with NEPA in reviewing and approving permits and other regulatory activities.

4) Review the DOE Appliance Standards Program

As required by statute, DOE implements minimum energy conservation standards and separate test procedures for more than 60 categories of appliances. The majority of the comments received from the public, both in response to the RFI and in meetings, concerned (1) existing DOE energy conservation standards and test procedure regulations, and (2) the procedures DOE follows for issuing those regulations.

Many commenters asked DOE to follow and review the so-called "Process Rule." The Process Rule describes the procedures, interpretations, and policies that guide DOE in establishing new or revised energy-efficiency standards for consumer products. DOE will consider issuing an RFI to gather additional feedback from stakeholders on how to amend or improve the Process Rule.

The Task Force has learned that many stakeholders are concerned with the current, statutorily required six-year review process for energy efficiency standards. These commenters believe the current review process may not provide adequate time for a retrospective analysis, which is critical to determine whether energy conservation standards are working as intended and the underlying assumptions are sound. In the absence of statutory changes to the six-year review period, DOE will consider "no amended standards" determinations when supported by the statute and data and when

more stringent standards are not technologically feasible and economically justified. DOE will also consider voluntary, non-regulatory, and market-based alternatives to standards-setting when supported by the statute. To this end, DOE published a RFI on November 28, 2017 seeking comment on potential market-based approaches, such as those used to set average fuel efficiency standards for vehicles, that may reduce compliance costs and increase consumer choice while preserving or enhancing appliance energy efficiency. Finally, DOE will refrain from enacting standards through the statutory mechanism known as a "direct final rule."

DOE will continue to engage with the public on the regulatory reform process, as we work to achieve the President's goals to reduce burdens on American families and businesses. As DOE identifies additional specific agency actions for reform, the Department will provide more opportunities for public participation, consistent with DOE's commitment to an open, transparent, and accountable rulemaking process.

I appreciate the opportunity to testify here today to explain DOE's efforts to achieve meaningful regulatory reform. I look forward to answering any questions. Thank you.

Mr. FARENTHOLD. Thank you, Mr. Simmons.

It is my normal policy to save my questions for last. Unfortunately, today, simultaneously with this hearing there is a Judiciary Committee markup, so at some point I may need to leave for a short period of time to vote, so I'm going to go ahead and ask my questions first in the event I do have to move over to the Judiciary Committee for a couple minutes. So I now recognize myself for five minutes.

Ms. PLASKETT. You usually play cleanup.

Mr. FARENTHOLD. I usually bat cleanup, I do. I may have to do a second round of questions if we have to clean up.

All right. Mr. Simmons, in Secretary Perry's October 25 report on regulatory reform under the heading of "Streamlining Natural Gas Exports," and you have talked a little bit about you all working on that, the DOE must conduct a public-interest review I think is what it's called. Can you tell me the basis for this statement?

Mr. SIMMONS. I cannot. I will happily get with the Office of Fossil Energy —

Mr. FARENTHOLD. All right. Well, here is where I am going on this. As I read the Natural Gas Act, section 3A, the Department must issue an approval on application unless it affirmatively finds, based on evidence in the record, that exportation will not be consistent with the public interest. So what that means to me is unless evidence in the record shows the export is not in the public interest, the approval should be granted. Unfortunately, through the previous administration—the previous administration insisted on a public-interest review as a reason to delay projects I think. Since it isn't required or authorized by the act, shouldn't we get rid of this concept and apply the law as it is written?

Mr. SIMMONS. We are—at DOE we are always in favor of applying the law so —

Mr. FARENTHOLD. All right. Well, we have companies in Texas whose export authorizations have been delayed for years by what I consider to be this unauthorized and illegal policy. I do ask that you take it back to Secretary Perry and the folks at the DOE to consider modifying the report to make it consistent with the law, and rather than doing a public-interest review, granting it unless the record or information positively shows that it is not in the public interest.

This committee, the full committee a couple years ago held a field hearing in Fargo on the oil and gas industry and Federal regulations affecting it. Some of the testimony at that hearing indicated that in a horizontal well drilling— that is where they go down a mile or two and then they take a turn and go out a mile or two, that they could get a permit from the State in a month, maybe two. But if any part of that horizontal drilling went under any Federal property, whether that is a Federal highway or something, it could take the permitting process over a year. Has the Department of the Interior looked at this and other examples of the amount of time it takes to comply with regulations, as well as just whether the regulations are burdensome or unnecessary, Mr. Bernhardt?

Mr. BERNHARDT. Absolutely, Mr. Chairman. We are looking at things from the following perspective: what is in the law and regu-

lation, what is in guidance, and what are our actual business practices in processing permits and NEPA documents, for example. And what we find is that there is a great deal of business process practices that probably can be reformed and shortened significantly primarily through what is called the surnaming process at the Department. People review—you know, you may have 40, 50 people review a single document before it goes to the Federal Register, and we're looking at that to make that process a more streamlined and efficient process itself.

Mr. FARENTHOLD. Mr. Simmons, is DOE looking at process, too, to get the stuff out faster, whether it's these LNG exports or other things you all are dealing with?

Mr. SIMMONS. Without a doubt, and that is—with LNG exports in particular, we are very much concerned about streamlining that process so it doesn't take years but, you know, takes a more reasonable amount of time.

Mr. FARENTHOLD. All right. And then let me—Ms. Bolen, I don't want to ignore you, and I may get everybody else's input on this as well. A lot of your agencies employ folks from the private sector who have moved over into the industry. Some have said that this may create a conflict of interest when somebody who lobbied for or worked in the private sector affected by a regulation is in reviewing that regulation. Other people say, look, this provides valuable insight from stakeholders who are affected by these regulations. I am going to ask Ms. Bolen to start and the rest of the witnesses to just comment quickly on whether you see a conflict of interest there or whether you see value in having another perspective in their view of these regulations. Ms. Bolen?

Ms. BOLEN. Thank you. So just, first, I will say that all appointees at the Agency do receive ethics training through senior career ethics officers, and so I think that there would not be any conflict of interest as it's my understanding that they would be in compliance with their ethics obligations.

In regards to their experience, certainly, I think that the Agency would have some value in getting the perspective of those that have been on the ground and have been working on implementing these regulations in real time.

Mr. FARENTHOLD. Thank you. Mr. Simmons, do you have anything to add?

Mr. SIMMONS. Just to add that the Department of Energy takes our ethics—our ethical and our legal commitments very, very seriously and that we strive to meet them as well and that people—you know, one of the things that we hope to have is people with a wide variety of backgrounds and experience to be able to provide additional information into all the matters that we consider.

Mr. FARENTHOLD. Great. And, Mr. Bernhardt?

Mr. BERNHARDT. It's an interesting question as I look up and see the portraits of Abraham Lincoln, who was both a very successful lawyer and one of our greatest Presidents.

The first thing I would say is that the Federal law and the Trump Administration have laid out requirements for ethical practices. We have a team of experts at the Department and a variety of analysis take place about whether something is a matter—a general matter, a particular matter of general applicability, or a spe-

cific matter affecting—a particular matter affecting specific parties. Depending on that type of issue, there are different regulations that apply, and guidelines need to be followed. Every PAS signs an ethical document laying out their requirements, and so we take this very seriously. We have training, we have guidance documents, and we have experts to ensure that we are held accountable.

Mr. FARENTHOLD. Thank you very much. I see I went a little over with the answers.

I will now recognize Ms. Plaskett.

Ms. PLASKETT. Thank you very much.

And let me start by saying that, Mr. Bernhardt, I see in your written testimony you have as the mandate—one of your mandates that President Trump has said that he has “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 regulations while maintaining environmental protection and public health.” I have no problem with that statement, and I think the other members of this committee know that I may be one of the few Democrats who believe that we have maybe more regulations than are necessary. I have seen it in my own home in the Virgin Islands. The previous head of EPA was not really a friend of mine. I did not appreciate the maternalistic posturing that took place over the people of the Virgin Islands, who I believe knew better than she or the administration what environmental protections needed or did not need to be in place.

However, that does need to be done legally and with transparency in that deregulation, and that is the concern that I have as a committee member here, that I am not sure about the complete disclosure of the task forces that have been put in place for many of these agencies that are reviewing deregulation. I think that it is very important that the public know who is on the task force, the perspectives and backgrounds, while they may have followed conflicts, rules, and ethics laws in being there. How they may be swayed or may be influenced I think is very important for the public to be aware of.

Ms. Bolen, the EPA put on its website on March 24 a memo that, among other things, provides the names of members of the Agency’s Regulatory Reform Task Force. Why did the Agency decide to put the names online?

Ms. BOLEN. It was an agency-wide memorandum that the administrator signed and part of just transparency, good government, we posted it on our website to keep the public informed.

Ms. PLASKETT. And have you had any comments or thoughts from the public with regard to who the members of the task force are?

Ms. BOLEN. There—I’m not aware of any direct questions regarding the task force membership.

Ms. PLASKETT. Okay. Thank you. Last week, the full committee ranking member, Elijah Cummings, sent a letter to both the Energy Department and the Interior Departments requesting the names of the task force members. Mr. Bernhardt, the Interior Department has not to date responded to Mr. Cummings’ inquiry, nor

are the names of the task force members available publicly. Why has the Interior taken the position thus far, or do they intend to put the task force members' names available to the public?

Mr. BERNHARDT. It's—Representative, first, before I answer that question, I just want to say my heart goes out to your community. I was in the U.S. Virgin Islands two weeks ago looking at a variety of facilities as they relate to the Department of the Interior so —

Ms. PLASKETT. Thank you. And the National Parks has been a tremendous partner in that recovery. Many of the rangers acted as first responders immediately after the hurricane and particularly on the island of St. John really came to the support of the people, and we are really grateful for that.

Mr. BERNHARDT. I spent a lot of time with those folks a couple weeks ago and also in terms of continuing rehab and ensuring that we had some facilities open.

Ms. PLASKETT. Thank you.

Mr. BERNHARDT. So let me say this. It's my understanding that we have made our—the names of the task force available. I can't speak to the letter specifically, but I'm happy to provide you the names, and I'm happy to do that right now to the best of my recollection.

Ms. PLASKETT. If you could put that in writing to us. And you said you had made the names available. Where are they available

Mr. BERNHARDT. Well, I know that they've been made available to people who've asked, reporters and others. I'm not sure if they're online, but I know that the—from my perspective, they're certainly publicly available —

Ms. PLASKETT. Is there a reason why the task force composition is not online or available —

Mr. BERNHARDT. Well —

Ms. PLASKETT.—to the public?

Mr. BERNHARDT. Probably not. I think from my perspective the task force membership is likely to change as we get assistant secretaries and others in place, and the Senate has been relatively slow at providing those people. But we're certainly happy to make it available, and I'll certainly evaluate whether it ought to be on the web.

Ms. PLASKETT. Okay. Thank you. And the Energy Department as well, sir, Mr. Simmons, would you be able to provide those names to Mr. Cummings and to the committee? And is there a reason why those names are not public?

Mr. SIMMONS. I believe we've already done both —

Ms. PLASKETT. Okay.

Mr. SIMMONS.—as in we did have a phone call with committee staff a couple days ago where we shared those names, number one. Number two, I don't know if it's posted on our website, but it has been the subject of FOIA, which I think was—has been released publicly, but we will—we'll make sure those names are public.

Ms. PLASKETT. You will make sure?

Mr. SIMMONS. Yes.

Ms. PLASKETT. I don't know if you shared that with the full committee staff or the majority, but just—and thank you very much. I just think it is important that in the process of the review that

the task force is making not only that the names of the members are there but the process in which regulations they are reviewing are there for public comment as well. Thank you so much.

Mr. FARENTHOLD. Thank you. I will now recognize Mr. Palmer for his questions.

Mr. PALMER. Thank you, Mr. Chairman. Sometimes I feel like I am back on the Science, Space, and Technology Committee again. My background, I worked for 25 years for a think tank. I helped set a national network of State-based think tanks, but prior to that, I worked for two international engineering companies, one of which was in environmental systems, so I am acutely aware of the regulatory burden imposed on the American economy but also the importance of good regulations, sensible regulations. We have done a tremendous job of cleaning up the air and the water and the land in the United States.

When I was still with the think tank, we published an annual—every two years, it may have been every four years—a report on the progress that has been made. And I, Mr. Chairman, would like to enter the report into the record. It's entitled "Alabama's Environment 2014: Six Critical Indicators." But it has data from the EPA and Federal agencies that reflect the progress for the entire country.

The thing that I want to point out —

Mr. FARENTHOLD. Without objection, so ordered.

Mr. PALMER. Thank you, Mr. Chairman—is that from 1980 to 2012 we saw a 462 percent increase in gross domestic product, but during that same—we also saw a 93 percent increase in vehicle miles traveled, a 38 percent increase in population growth, 22 percent increase in energy consumption, but a 56 percent decrease in emissions. So I do commend the EPA and other Federal agencies for the work that they have done in that regard, but that doesn't mitigate at all the need to clean up the regulatory environment so to speak, to get rid of the obsolete, the out-of-date, the duplications, the contradictions so that we regulate effectively and appropriately. So I appreciate that.

There was also a comment made about climate change in regard to hurricanes. We went through a 12-year drought of hurricanes. It was the lowest number of—the lowest hurricane activity on record until this past year.

And I would also like to enter into the record a blog from Dr. Cliff Mass—he's University of Washington atmospheric scientist—in regard to hurricane activity.

Mr. FARENTHOLD. Without objection, it will be entered into the record.

Mr. PALMER. Thank you, sir.

With that said, again, as I said in my opening comments, I am very appreciative of the work that you are doing. I realize it is not policy work. It is more like an EPA cleanup effort. Have you received any pushback, serious pushback from career staff at your agencies? And we will begin with you, Mr. Bernhardt, at Department of Interior.

Mr. BERNHARDT. I think that I would say that our folks have worked very —

Mr. PALMER. Can you speak into the microphone? Thanks.

Mr. BERNHARDT. Our folks have worked very collaboratively with us, sir.

Mr. PALMER. How about you, Ms. Bolen?

Ms. BOLEN. Career staff have provided valuable expertise and collaboration with us throughout the regulatory reform work, and I've not personally received any pushback.

Mr. PALMER. How about you, Mr. Simmons?

Mr. SIMMONS. And I would also echo that, that the majority of the members of the Regulatory Reform Task Force are career, and they provide us with indispensable information as we move forward with regulatory reform.

Mr. PALMER. Would you also say that, by going through this process, that it makes the career staff, it makes all of you more effective in carrying out the responsibilities that you have in the regulatory sphere? And I will reverse order. I will start with Mr. Simmons.

Mr. SIMMONS. Oh, without a doubt. The vast majority of the work that the Regulatory Reform Task Force has been working on is our relations with the national labs, the—you know, Congress appropriates billions of dollars a year that go to the national labs, and so we want to make sure that the—that that process is as—you know, strip out as much bureaucracy as we can, but also, the people that have to deal with that on a day-to-day basis and will deal with it in 4 years and 8 years and 16 years, those are all career staff. So they very much want the best process possible, and that's why—that their—especially in that area that their input has been so valuable to us.

Mr. PALMER. Ms. Bolen?

Ms. BOLEN. Certainly. So at the EPA retrospective review of existing regulations is not new. There was a prior effort under the previous administration to conduct retrospective review, and the EPA, some of our environmental statutes require periodic reviews and potential revisions, so this is part of what the agency does on a regular basis.

Mr. PALMER. Mr. Bernhardt?

Mr. BERNHARDT. I think since the establishment of the Civil Service Reform Act of 1978 —

Mr. PALMER. Could you lean into the microphone?

Mr. BERNHARDT.—the establishment of the SES Corps, they are—they understand clearly that administrations come and change policy perspectives and that that represents the will of the people, and they're prepared to work with everybody. That's generally my experience.

Mr. PALMER. Well, my final point on this—and I realize I am over time, Mr. Chairman—is that the point of this exercise is to bring clarity to the regulatory process, which not only benefits the American economy and the American people, as I said in my opening comments, it is costing the average household \$15,000 a year—it enables those who are responsible for implementing the regulations not only at the Federal level but at the State and local level to be able to do their job effectively with the least negative impact on families and businesses.

With that, Mr. Chairman, I yield back.

Mr. FARENTHOLD. Thank you very much.

I will now recognize Mrs. Demings from Florida for five minutes.  
Mrs. DEMINGS. Thank you so much again, Mr. Chairman, and thank you to our witnesses.

There is no doubt we want to get this right, and I am so glad that we have spent quite a bit of time talking about transparency. It is important. The public's input, the public's right to know is very, very critical to the overall process of getting things right.

But it appears to me under the current administration science-based policies are being repealed and replaced with politics-based policies. We would hope that would not be the case under any administration, but it certainly appears that way to me.

Ms. Bolen, how many members of the Regulatory Reform Task Force previously worked for companies regulated by the EPA?

Ms. BOLEN. I do not have personal knowledge of the detailed backgrounds of all the members of the Regulatory Reform Task Force, though a majority were previous Capitol Hill staff.

Mrs. DEMINGS. So you don't know of anyone who works for a company or an agency that was regulated by the EPA that is currently a member of the task force?

Ms. BOLEN. To my knowledge, the members of the task force had not been employed by any members of the regulated community.

Mrs. DEMINGS. Okay. How many political appointees appointed by Administrator Pruitt specifically worked for oil or chemical companies or their lobby groups? Do you know that answer?

Ms. BOLEN. I do not have personal knowledge of all the political appointees' backgrounds.

Mrs. DEMINGS. Could you talk a little bit in general about the backgrounds of persons that would be selected to serve on a task force to decide which regulations will remain or which regulations would be repealed?

Ms. BOLEN. Um-hum. Certainly. The members of the task force, I have full confidence in all of the qualifications of the members of the task force, given their experience on environmental and regulatory policy issues.

Mrs. DEMINGS. But you don't know of one who worked for a company or an organization that was regulated by the EPA?

Ms. BOLEN. The EPA task force is comprised of four senior staff members, and no, to my knowledge, none of the four has specifically been employed directly by a company that the Agency regulates.

Mrs. DEMINGS. Do you know whether Administrator Pruitt hired a former official with the American Petroleum Institute?

Ms. BOLEN. I'm —

Mrs. DEMINGS. Erik Baptist?

Ms. BOLEN. Yes, I'm familiar with Mr. Baptist.

Mrs. DEMINGS. A former official with BP Troy Lyons?

Ms. BOLEN. Yes.

Mrs. DEMINGS. A former employee with Koch Companies, Madeline Morris?

Ms. BOLEN. Congresswoman, the members that you—the last three that you just mentioned —

Mrs. DEMINGS. Is that —

Ms. BOLEN.—are not on the task force.

Mrs. DEMINGS. Is Madeline Morris a member of the task force?

Ms. BOLEN. They are not members of the task force, no.

Mrs. DEMINGS. What is their current position, please?

Ms. BOLEN. Ms. Morris is no longer with the Agency.

Mrs. DEMINGS. Okay. What was her position? Do you remember?

Ms. BOLEN. To the best of my recollection it was executive assistant. But, Congresswoman, I'm happy to follow up through the proper channels with additional information that you have regarding political appointees at the EPA.

Mrs. DEMINGS. Okay. That would be great. And thank you so much for taking the lead in your organization for making—in your agency for making sure that task force members' names were included up front on your website.

And with that, thank you, Mr. Chairman. I yield back.

Mr. FARENTHOLD. Thank you very much. I will now recognize Mr. Duncan for five minutes.

Mr. DUNCAN. Well, thank you very much, Mr. Chairman.

Mr. Bernhardt, my understanding is that you say your department has taken 15 deregulatory actions and you have got 28 more under review or —

Mr. BERNHARDT. Yes, I think it's 13 and 28, but yes, you're absolutely right.

Mr. DUNCAN. Okay. And would you give me an example of one of those that you have taken action on?

Mr. BERNHARDT. Sure. And it's—I think it's important to recognize that taking action, particularly for Interior, the President was very clear in his—in certain executive orders, particularly those relating to energy, of some—of regulations that he wanted us to look at. And so we did that. And, you know, the process is not ultimately the task force's process. It's the process enshrined in law to review and modify regulations, which is through the Administrative Procedure Act. And that process itself is a very public process, so, for example, regulations related to hydraulic fracturing on Federal land, regulations regarding methane, those would be two specific ones where, after the task force reviewed them, they went through a—they began going through a public process under the Administrative Procedures Act.

Mr. DUNCAN. I have an article from one of the Washington newspapers here from a few months ago, and it says that the Obama administration issued final regulations in this last year alone that cost \$164 billion. Is it one of your goals in this deregulatory effort to result in cost savings to taxpayers and businesses?

Mr. BERNHARDT. Right. So at least from our perspective, the baseline is a zero increase on burden, and we're hoping to actually have the economic burden be a net decrease, so that's our ultimate goal.

Mr. DUNCAN. All right. Ms. Bolen, I heard you say that you have gotten 460,000 comments and 63—but most of them have been form letters, but 63,000 have been individual comments. Is that correct?

Ms. BOLEN. That is correct.

Mr. DUNCAN. And you are going through all those. Has the EPA taken any deregulatory actions yet?

Ms. BOLEN. Yes. We have several proposed deregulatory actions.

Mr. DUNCAN. Several proposed?

Ms. BOLEN. And we—and for fiscal year 2017 we were able to finalize a number of deregulatory actions as well.

Mr. DUNCAN. All right. And would you give me an example of one of those?

Ms. BOLEN. Certain. So for proposed deregulatory actions, we have a proposed repeal of the 2015 Waters of the United States rule. In terms of a final deregulatory action, we withdrew an information collection request for methane emission information from the oil and gas sector in March, and that information collection request is a deregulatory action under Executive Order 13771. And that is—that information collection request alone was estimated by the Agency to provide upwards of over \$30 million in cost savings.

Mr. DUNCAN. All right. Thank you very much.

Mr. Simmons, what about your department? Have you taken any deregulatory actions as of yet?

Mr. SIMMONS. We've—we have not—the only deregulatory actions that we have finalized are not regulations per se, but as our—as we work with the labs, we've taken some final actions there. Otherwise, just yesterday, we published in the Federal Register a request for information on market-based reforms, as I mentioned in my testimony, to possible changes that we could make to the Appliance Standards Program. That was yesterday. Just today, this morning, we sent a request for information about how we could improve the process rule, and that should be published in the Federal Register in the next couple days, as well as we have put out a proposed rule to streamline small-scale natural gas exports, and we should be finalizing that in, you know—in the not-too-distant future. I don't know the timeline but in the not-too-distant future.

Mr. DUNCAN. All right. Thank you very much. I apologize. I had to go briefly to another hearing. I didn't get to hear your testimony, but, Mr. Chairman, thank you very much.

Mr. FARENTHOLD. Thank you. I now recognize the gentleman from California for five minutes.

Mr. DESAULNIER. Thank you, Mr. Chairman, and thank you and all those involved in this hearing. I wish this was purely bipartisan. I know there to be some arguments, but I think getting regulations for the general public right, and that includes the business community.

So, Mr. Bernhardt, representing northern California and the California Delta, you have had a long relationship in this regard. For my colleagues, Mark Twain once famously said about water in California, that whiskey was for drinking in California, but water was for fighting over. So, Mr. Bernhardt, this is in the context much like my friend and colleague from Florida. The regulation is important, but who is enforcing it is important, and whether there is a conflict of interest. So you have been in the Department and the Bush administration. You have been a lobbyist with clients who have an interest in this field.

When you were confirmed, you, quote/unquote, said that you “wouldn't act on any issues in regards to conflicts unless you were first authorized to participate,” quote/unquote. You have had two former clients who have been in the news in California who seem to have crossed that bridge at least from my perspective. Caddis Inc. is now allowed to pump groundwater in southern California

since you rejoined this administration, and that was a change in policy from the Obama administration. And then Westlands Water District has been involved in a subsidy that has been brought to us by the IG in the Delta tunnels planning process.

So my question for you is have you sought or received any waivers to work on these matters or any other matters when it comes to California water?

Mr. BERNHARDT. My ethics recusal is very clear that I will not participate personally or substantially in any particular matter involving specific parties in which I know a former employer or client of mine is a party or represents a party.

Mr. DESAULNIER. So you're not involved right now in any policy

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Mr. BERNHARDT. That is —

Mr. DESAULNIER.—in this regard?

Mr. BERNHARDT. I'm sorry. I did not hear you, but let me finish

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Mr. DESAULNIER. Okay.

Mr. BERNHARDT.—addressing your first question. I've had no role in any particular matter regarding either of these—any particular matter involving specific parties involving either of these two clients, and I've not sought a waiver in such instance.

Mr. DESAULNIER. So just on the issue of perception, perception being important, obviously, you have put some thought into this. How would you deal with the general public in California that would say here is somebody who has worked in the administration who has gone outside the so-called revolving door? It seems to me that you are trying to establish a bright line, but perception-wise, you have made many outside that might say you know more about it. But is this sufficient given the role you have in people who are working underneath you or carrying out this policy, knowing that you have had a relationship and may in the future have a relationship with these clients?

Mr. BERNHARDT. Well, let's be very clear. I think I've put in place the most robust process ever devised by a deputy secretary, and let me tell you, we have specific recusals. We require specific guidance. I have had training sessions, and I consult regularly with the experts. Every request for a meeting by me is run through—not by me but for a meeting with me is run through ethics experts, so we have put in place a very robust process. And, you know, I can't speak necessarily to what others may say, but at the end of the day, I know that this is a far more robust process than was ever in place when other folks from large law firms have joined entities like the Department of the Interior, and I will stand behind them.

Mr. DESAULNIER. Could you be more specific as to those other situations?

Mr. BERNHARDT. Sure. Go look at David Hayes, the deputy secretary who came from Latham Watkins. Go look at Janice Schneider. Those will be two from the prior administration. I could give you a long list. And in regards to policy matters, I think you'd find that their client list looked very similar to mine before they went into the Department of the Interior.

Mr. DESAULNIER. And when the time comes for you to reenter the private sector, is it your intention to go back to your former law firm?

Mr. BERNHARDT. I have no intention to do that. You know, life leads the way it does, but certainly, when I left my law firm, I gave up my interest, and I don't have a relationship with my law firm in any sort of way. And the future will hold what the future does.

Mr. DESAULNIER. Okay. I appreciate those comments. You can certainly appreciate from my perspective and my constituents' the perception that may be subjective, given their desire to protect the environment, where they live, they are impacted by—certainly the perception is different. With that, I —

Mr. BERNHARDT. And I also think that —

Mr. DESAULNIER.—yield back the balance of my time.

Mr. BERNHARDT.—part of that perception is based on people not understanding the actual rules.

Mr. DESAULNIER. It is all based on perception. And with that, I would be happy to yield back the balance of my time.

Mr. FARENTHOLD. Thank you very much. We will now recognize the gentleman from Montana for five minutes.

Mr. GIANFORTE. Thank you, Mr. Chairman. And to the committee, thank you for being here for this important work.

I appreciate the President's order to identify overly burdensome, costly, and outdated regulations for repeal or revision, as well as the administration's desire for two rules to be repealed for every one that is added. One of the reasons I came to Washington was to make it easier for job creators back in Montana.

Mr. Bernhardt, you have a huge job covering all the entities at Interior from the National Park Service, the Office of Surface Mining and Reclamation, and the enforcement, and the Bureau of Indian Affairs. The Bureau of Land Management controls just over 8 million acres in the State of Montana. The National Park Service and U.S. Fish and Wildlife Service each control another 1 million acres, so over 10 million acres in total. As part of this Regulatory Reform Act, how did you work with local and State organizations to collect input on what regulations to focus on? And if you could share some of the successes you have had.

Mr. BERNHARDT. So we've received comments from States. We've received comments from associations like the Western Governors' Association. We've received comments from localities, some of which have very specific problems, and some of which have more broader concerns. And what we do in our meetings is we take the comments that we've received between the last meeting and that one, and we go through them and we say, "Hey, this has merit; let's have the Bureau do some research on that." And so that is the way—it's a very—it's a process that anybody can take advantage of, and many have.

Mr. GIANFORTE. Okay. Great. And I just applaud you for that work so far, and I encourage you to continue it.

We have heard some concerns at these hearings about previous employment of staff assisting with this regulatory reform across the agencies. As a business guy, it is kind of puzzling to me why an agency assembling staff would not consider people with prior experience in the area they are going to be working. That seems to

be portrayed as some kind of novel approach. In fact, it has been a practice that has been followed in prior administrations.

For example, when not serving as the EPA's senior policy advisor to the administrator under President Obama or deputy administrator for President Clinton's administration, Bob Sussman headed the environmental practice at a large D.C. law firm to advise and advocate for companies and trade associations.

In the previous administration, Cameron Davis, a senior advisor to the EPA administrator, provided counsel on the Great Lakes policy and coordinated funding initiatives. His previous occupation was president and chief executive officer of the Alliance for the Great Lakes.

David McIntosh at the previous administration's EPA had also worked as a Clean Air Act litigator and regulatory lawyer at the National Resources Defense Council. In fact, that organization is well represented in that administration.

The Department of Interior's Ned Farquhar served as the National Resources Defense Council as an energy and climate advocate prior to being named deputy assistant secretary for Lands and Minerals Management.

Before Janice Schneider appeared before this very committee on behalf of the Department of Interior to defend its proposed Stream Protection Rule in 2015, she co-chaired a large law firm's energy and infrastructure project siting and defense practice.

Also, in 2015, Mark McCall was appointed executive director of the Department of Energy's Loans Program. And this list goes on and on. Clearly, agencies have considered prior experience and hired people with expertise.

So my question, after that long list of prior administrations, is it appropriate for agencies to select people who have experience to do the jobs they are being hired for? And each one of you, if you could answer.

Mr. BERNHARDT. Absolutely, provided they follow the regulations and the ethical requirements that have been established by law.

Mr. GIANFORTE. Ms. Bolen?

Ms. BOLEN. I agree with that statement.

Mr. GIANFORTE. And Mr. Simmons?

Mr. SIMMONS. Agreed. Prior experience is incredibly important, as Mr. Bernhardt said, as long as we meet our ethical, legal—and legal obligations.

Mr. GIANFORTE. And I would just—you have been very clear that that was a requirement in all cases, that, as you had said, Mr. Bernhardt, you had separated yourself, as we do in our positions, from prior engagements so that we can serve the people of America. And you have done that in your agencies, and I applaud you for hiring talented, qualified people to fill these positions. And I thank you for your testimony today.

With that, I yield back, Mr. Chairman.

Mr. FARENTHOLD. Thank you very much. And I would like to thank our witnesses for appearing before us today.

Oh, did we miss Mr. Grothman? Sorry about that.

Mr. GROTHMAN. That is okay.

Mr. FARENTHOLD. You disappeared, and you are back. Welcome back.

Mr. GROTHMAN. I was hanging out in the Education Committee, but I wouldn't miss this for the world.

Mr. FARENTHOLD. All right. I apologize. You're recognized for five minutes, sir.

Mr. GROTHMAN. Okay. I want to follow up a little bit again as far as the background of people you hire, and a lot of my experience actually came at the State level, but I always felt it was a big mistake to hire people in regulatory agencies straight out of college or academics because they really didn't understand how burdensome those regulations are. Are any of you and your agencies hiring people straight out of university or people whose only experience has been in the world of academia, or are you restricting yourselves hopefully to people who have experience with the businesses that are going to be regulated?

Mr. SIMMONS. I—well, I'll start by answering that. For the broad swath of hiring across DOE, we—you know, we meet our human capital requirements and, you know, we look to hire the best people for the appropriate job. For these entry-level positions, we definitely would like to have people right out of college because, I mean, that's what those positions are, to give people experience. For more senior-level positions, you definitely want people with various types of experience to provide that necessary information. So it all depends on the position for the—for hiring.

Mr. GROTHMAN. Yes?

Ms. BOLEN. So certainly, the Agency does have fellowship programs with recent graduates, but just generally speaking, the—I'm aware that the political staff I think has a broad scope in their background and qualifications and levels of expertise that they can offer, but I couldn't speak to the Agency as a whole's hiring practices.

Mr. GROTHMAN. Okay.

Mr. BERNHARDT. We have approximately 70,000 employees. We hire all sorts of folks. Obviously, at a policy level, at a senior level, what we see in folks tend to be people that have experience in State or local government, people that have experience in regulatory paradigms that are complicated, or people that have science backgrounds that are relevant to their mission.

Mr. GROTHMAN. I am a little bit concerned, and I would like you to comment on this because, having dealt with regulatory agencies, sometimes somebody who has never worked outside of government—and that is fine—but they don't understand how burdensome a new regulation can be or, you know, you may change a regulation from three years ago you thought you were complying, now you are not, that sort of thing.

I am a little bit concerned with—you know, and I realize not your entire functions are regulatory. You know, I mean, if you are hiring somebody for the parks or something, that is one thing, but if it is a regulatory agency that affects how somebody else is doing business or their property, I think it is important to hire somebody who has been on the other side first.

And I wondered if you would ever consider, you know, maybe putting an administrative rule, putting in requirements that people who work for the regulatory part of your agencies have to have three or four years' experience first so they understand how it looks

when a new wave of paperwork is thrown at you or you have to spend perhaps millions of dollars on something when two years ago you were in compliance. Would any of you comment on maybe if you would ever even have the ability to maybe put some administrative rule in effect so you greatly increase the chance that you will be hiring people who have experience other than just college-related —

Mr. BERNHARDT. So —

Mr. GROTHMAN.—if they are interacting with private individuals?

Mr. BERNHARDT. Yes, I don't—I've never thought about the rule-making, but I will give you a similar example, and that is at times I think the folks that we have in our headquarters, even if they're regulatory people, they don't necessarily know what folks are actually doing on the ground and the challenges that our field offices are facing. And I've seen this and, you know, one of the things we're looking at is ensuring that the people that are making regulatory policy decisions actually know what the on-the-ground effects are even within the local regulators because I think their perspective tends to be a little different because they are there experiencing these things as well. Your idea is an interesting one. We'd have to talk to our lawyers about that.

Mr. GROTHMAN. Okay. Ms. Bolen?

Ms. BOLEN. I would have to take back your suggestion, but I will offer that the Office of Policy, the office in which I serve, does have a program that we've relaunched that was first initiated under the Clinton administration known as Common Sense, and now we have rebranded it to Smart Sectors, which is an opportunity for the Agency to develop partnerships with the regulated community and to provide a means for career staff to get on-the-ground tours and site visits and to better understand the regulated community. And this is just a partnership that we relaunched several months ago that was something past administrations have done to try to bridge the gap between career staff and the regulated entities.

Mr. GROTHMAN. Right. One way to make sure that the staff always understands the regulated community is to make sure you hire them from the regulated community, but thank you.

Mr. FARENTHOLD. Thank you very much. Just checking to make sure nobody else walked in.

All right. With that, I will thank our witnesses again for being here. It was great hearing from you, great hearing about the wonderful work that you all are doing to reduce our regulatory environment.

We are going to hold the record open for two weeks for any member to submit a written opening statement or questions for the record. And if you guys would be so kind as to reply to any of those we get, it would be greatly appreciated.

If there being no further business, without objection, the subcommittees stand adjourned.

[Whereupon, at 11:25 a.m., the subcommittees were adjourned.]



## **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD

The report titled, "Alabama's Environment 2014: Six Critical Indicators," can be found at:  
[https://www.alabamapolicy.org/wp-content/uploads/2014/08/Alabama-Environment-2014\\_optimized-v1.pdf](https://www.alabamapolicy.org/wp-content/uploads/2014/08/Alabama-Environment-2014_optimized-v1.pdf).

Dr. Cliff Mass' blog can be found at: <http://cliffmass.blogspot.com/2017/08/global-warming-and-hurricane-harvey.html>.



**Department of Energy**  
Washington, DC 20585

January 30, 2018

The Honorable Blake Farenthold  
Chairman  
Subcommittee on Interior, Energy and Environment  
House Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

On November 29, 2017, Acting Assistant Secretary Daniel R Simmons testified at a hearing titled, "Regulatory Reform Task Forces Check-In: Part III".

Enclosed are answers to questions asked by you at the hearing.

If you need any additional information or further assistance, please contact me or Fahiyeh Yusuf, Office of Congressional and Intergovernmental Affairs at (202) 586-5450.

Sincerely,

A handwritten signature in black ink that reads "Marty Dannenfelser".

Marty Dannenfelser  
Deputy Assistant Secretary for House Affairs  
Congressional and Intergovernmental Affairs

Enclosures

cc: The Honorable Stacey E. Plaskett  
Ranking Member



## QUESTIONS FROM CHAIRMAN BLAKE FARENTHOLD

Q1. What is the basis for the statement in Secretary Perry's October 25 report on regulatory reform under the heading of "Streamlining Natural Gas Exports" that DOE must conduct a public-interest review?

A1. Section 3 of the Natural Gas Act authorizes the exportation of natural gas from the United States unless DOE determines that doing so "will not be consistent with the public interest" (15 U.S.C. § 717b(a)). DOE's discretion in this regard depends on whether the country to which the natural gas will be exported is one with which the United States has a "free trade agreement requiring national treatment for trade in natural gas." For free trade countries, DOE must authorize the exportation "without modification or delay," as required by section 3(c). For non-free trade countries, DOE must independently determine whether such exports would be inconsistent with the public interest, as required by section 3(a).

The Secretary's report was referring to exports to non-free trade countries, for which DOE must conduct a public interest review.

Q2. As I read the Natural Gas Act, section 3A, the Department must issue an approval on application unless it affirmatively finds, based on evidence in the record, that exportation will not be consistent with the public interest. So what that means to me is unless evidence in the record shows the export is not in the public interest, the approval should be granted. Unfortunately, through the previous administration -- the previous administration insisted on a public-interest review as a reason to delay projects I think. Since it isn't required or authorized by the act, shouldn't we get rid of this concept and apply the law as it is written?

A2. DOE complies with the text of NGA 3(a), which requires DOE to issue an "order upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest." DOE, as well as federal courts, consistently have construed this provision as containing a rebuttable presumption that a proposed export of natural gas is in the public interest.

While section 3(a) establishes a broad public interest standard and a presumption favoring export authorizations, the statute does require a "public interest" determination.

The factors DOE considers include economic impacts, international impacts, security of natural gas supply, and environmental impacts, among others. Even for uncontested applications—where no party is opposing the export—DOE still must conduct a public interest analysis as required by section 3(a) of the Natural Gas Act. Moreover, because a decision on whether to approve the export of natural gas to non-FTA countries has been considered a major federal action by the Department, the Department is required to perform an environmental review under the National Environmental Policy Act (NEPA), which can add time to the application review process, unless a categorical exclusion can be applied.

- Q3. Well, we have companies in Texas whose export authorizations have been delayed for years by what I consider to be this unauthorized and illegal policy. I do ask that you take it back to Secretary Perry and the folks at the DOE to consider modifying the report to make it consistent with the law, and rather than doing a public-interest review, granting it unless the record or information positively shows that it is not in the public interest.
- A3. DOE will continue to grant export authorizations as expeditiously as possible. We welcome working with your office to identify the companies that have been subject to delays. The majority of proposed export projects fall under the jurisdiction of both DOE and the Federal Energy Regulatory Commission (FERC). FERC is responsible for authorizing the siting and construction of onshore or near-shore LNG export facilities under the Natural Gas Act, and therefore serves as the lead agency in the environmental reviews of these projects under NEPA. The environmental review at FERC can take several years given the complexities of the project and, given that it is a public process, any challenges the application may receive from the public. DOE is a cooperating agency on these FERC-led environmental reviews. DOE takes final action on applications as soon as possible after the FERC approval process is complete.
- Q4. Is DOE required to conduct a review under the National Environmental Policy Act (NEPA) for natural gas export authorizations?
- A4. Yes, natural gas export authorizations under section 3(a) of the Natural Gas Act (exports to non-FTA countries) are considered major federal actions requiring review under NEPA. FERC (or, in certain cases, the U.S. Maritime Administration, “MARAD”) leads

the NEPA process for LNG export facilities, and DOE acts as a cooperating agency in that process.

However, if an application involves an export facility that is *not* subject to FERC jurisdiction, and such exports will be made to non-FTA countries, then DOE evaluates whether the application qualifies for a “categorical exclusion” from the preparation of an environmental impact statement or environmental assessment under NEPA. In several LNG orders, DOE has applied categorical exclusion B5.7 of DOE’s regulations. This exclusion applies to natural gas import or export activities requiring minor operational changes to existing projects, but no new construction. If such exports to non-FTA countries do not qualify for a categorical exclusion, then DOE leads the NEPA process.



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

JAN 12 2018

The Honorable Blake Farenthold  
Chairman, House Oversight and Government  
Reform S/C on the Interior, Energy, and Environment  
Washington, DC 20515

Dear Chairman Farenthold:

Enclosed are responses to questions received by Deputy Secretary of the Interior David Bernhardt following his November 29, 2017, appearance before your Subcommittee at the hearing titled "Regulatory Reform Task Forces Check-In: Part III."

A similar letter has been sent to Chairman Palmer of the Subcommittee on Intergovernmental Affairs. Thank you for the opportunity to provide this material to the Subcommittee.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Salotti".

Christopher P. Salotti  
Legislative Counsel  
Office of Congressional  
and Legislative Affairs

Enclosure

cc: The Honorable Stacey E. Plaskett, Ranking Member, Subcommittee on the Interior,  
Energy, and Environment

The Honorable Val Butler Demings, Ranking Member, Subcommittee on  
Intergovernmental Affairs

House Committee on Oversight and Government Reform  
Hearing on Regulatory Reform  
November 29, 2017

Questions from Rep. DeSaulnier

**Deputy Secretary Bernhardt, you mentioned that you are currently recused from some matters related to former clients, and described a robust ethics process to ensure that conflicts of interest are avoided.**

- **Is that recusal, or those recusals, in writing?**

**Response:** Yes.

- **Can you provide any such recusal or agreement, and any related documents, to this committee as part of your responses for the record?**

**Response:** Yes, I take the commitment I made when I signed my ethics agreement very seriously and, as I committed in that document, I will avoid participating personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or my former firm represents a party for a period of one year after I last provided service to that client.

- **Will you commit to promptly informing this committee if you seek any waiver or alteration of any recusal?**

**Response:** I take my ethical obligations very seriously. I have not sought any ethics waivers, and I have no present intention to do so. I have no obligation to report a request for a waiver to the Committee.

- **In the event that you are recused from participating in a decision or process, who assumes your role?**
  - **Is there a formal process to determine who steps in?**

**Response:** The answer to your question could vary depending on the particular factual and legal situation as well as the specific parties involved in any hypothetical, underlying matter.

**As we discussed, the Interior Department continues to review several matters that are important to your former clients:**

- **Have you been engaged in any meetings or conversations relating to Secretary Zinke's review of the Mojave Trails National Monument?**

**Response:** No.

- **Have any members of the staff in the Deputy Secretary's office, including Associate Deputy Secretary James Cason, participated in any meetings relating to the Cadiz water project in California or BLM Instruction Memorandum No. 2014-122, Evaluation and Approval of Uses within Railroad Rights-of-Way?**

**Response:** I do not personally know the extent of Associate Deputy Secretary Cason's involvement, if any, with the referenced instruction memorandum.

House Committee on Oversight and Government Reform  
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- **Since returning to the Department of the Interior, have you had any contact – including in person, by telephone, or by email – with Norman Brownstein, Luke Johnson, or Lawrence Jensen?**

**Response:** Since taking the oath of office, I have not had any contact with the referenced individuals regarding any particular matters involving specific parties in which they are or represent a party.

- **Since arriving at the Department of the Interior, have you participated in any meetings or conversations relating to the proposed Rosemont copper mine in Arizona?**

**Response:** No.

- **Have you discussed or participated in any matter that would affect the Westlands Water District, including regarding drainage issues in the Central Valley Project's San Luis Unit, CVP water contracts, or the quantity or prices of water delivered by the CVP?**

**Response:** Consistent with my ethical obligations, I have not participated personally or substantially in any particular matter involving specific parties in which Westlands Water District was a party.

**Regarding transparency at the Department:**

- **Secretary Zinke's meeting and travel schedules have been posted on the Department of the Interior's website, pursuant to Freedom of Information Act requests. Similar requests have been made for your meeting and travel schedules. Will you post your meeting and travel schedules on the DOI website and share them with the Committee?**

**Response:** I have consistently provided my schedules to requesters consistent with my legal obligations, and I will continue to do so.

No response received.

Question for Ms. Brittany Bolen  
Deputy Associate Administrator Office of Policy  
Environmental Protection Agency

Questions from Ranking Member Val Demings  
Subcommittee on Intergovernmental Affairs  
Committee on Oversight and Government Reform

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At the hearing, I had asked you about the employment background of individuals serving on the Environmental Protection Agency's Regulatory Reform Task Force. In response to that question, you replied that task force members did not have a work history of being specifically employed by an industry regulated by the Agency.

1. However, it is clear that members of the task force do have strong ties to industries regulated by the Agency. Therefore, I would like clarification on your response given the following:
  - **Samantha Dravis** – Previously worked for the Republican Attorneys General Association and the Rule of Law Defense Fund, which have been “[heavily] funded by fossil fuel companies.”<sup>1</sup>
  - **Byron Brown** – Spouse currently employed by the Hess Corporation, which is an oil and gas company.<sup>2</sup> According to *ProPublica*, Mr. Brown has refused to disclose if he owns Hess stock<sup>3</sup> or will recuse himself on issues related to the American Petroleum Institute since his wife's company is a member.<sup>4</sup>
2. When the task force members were being selected, was there any consideration paid to how many members have an industry background as opposed to career EPA employees?
  - If so, please provide documentation to demonstrate this limit and an explanation for why it has not been made publicly available.

Additionally, I asked about the background of senior advisors with previous ties to industries regulated by the EPA. You confirmed that the Administrator hired a former official with the American Petroleum Institute, Erik Baptist; a former BP employee, Troy Lyons; and a former Koch Companies employee, Madeline Morris.

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<sup>1</sup> Natural Resources Defense Council, *Pruitt Picks a Fellow Enemy of the EPA for a Powerful Role at the Agency* (online at [www.nrdc.org/trump-watch/pruitt-picks-fellow-enemy-epa-powerful-role-agency](http://www.nrdc.org/trump-watch/pruitt-picks-fellow-enemy-epa-powerful-role-agency)) (accessed December 7, 2017).

<sup>2</sup> *Trump Has Secretive Teams to Roll Back Regulations, Led by Hires with Deep Industry Ties*, *ProPublica*, July 11, 2017 (online at [www.propublica.org/article/trump-has-secretive-teams-to-roll-back-regulations-led-by-hires-with-deep-industry-ties](http://www.propublica.org/article/trump-has-secretive-teams-to-roll-back-regulations-led-by-hires-with-deep-industry-ties)).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

1. In what capacity do the named EPA personnel, and other unnamed advisors or senior staff advise or work with the task force?
2. Do advisors disclose or recuse themselves from participation in task force activities in which they have previous employment or current financial interest?
  - If so, please provide documentation for this policy as well as an explanation for why it has not been made publicly available.

In addition to my concerns regarding conflicts of interest among task force members and advisors, I am disturbed by reports that the Administrator is barring researchers who have received EPA grants from serving as scientific advisors. As a result of this new policy, seven scientific advisors have stepped down.

At the same time, the *Washington Post* has reported that Administrator Pruitt's appointments to scientific advisory boards include people with industry ties. For instance, Kimberly White, is a current executive at the American Chemical Council, an industry group.

1. Is this indeed true, that scientists who have received EPA grants are barred from serving on scientific advisory boards?
2. Are you aware of any directives by Administrator Pruitt or EPA policies that limit the role of those on the advisory boards when examining policies related to businesses they formerly or currently have ties?
  - If so, what are those policies?