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DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Chapters I-VII

30 CFR Chapters II, IV, V, VII, XII

36 CFR Chapter I

43 CFR Subtitles A, B Chapter I, II

50 CFR Chapter I

Regulatory Reform

[133D5670LC DS10100000 DLCAP0000.000000 WBS DX.10120]

AGENCY: Office of the Secretary, Interior.

ACTION: Request for comments.

SUMMARY: This document requests public input on how the Department of the Interior (Interior) can improve implementation of regulatory reform initiatives and policies and identify regulations for repeal, replacement, or modification. This document also provides an overview of Interior's approach for implementing the regulatory reform initiative to alleviate unnecessary burdens placed on the American people, which was established by President Trump in Executive Order (E.O.) 13777, "Enforcing the Regulatory Reform Agenda."

DATES: No deadline for the receipt of comments on this effort has been established at this time; Interior will review comments on an ongoing basis.

ADDRESSES: Electronically: Go to the Federal eRulemaking Portal: www.regulations.gov.

In the Search box, enter the appropriate document number from the table below. Please comment on the document number that correlates to the agency most relevant to your comments:

Agency(ies)	Document Number
Office of the Assistant Secretary – Indian Affairs, Bureau of Indian Affairs, Bureau of Indian Education	DOI-2017-0003-0002
Bureau of Land Management	DOI-2017-0003-0003
Bureau of Ocean Energy Management	DOI-2017-0003-0004
Bureau of Reclamation	DOI-2017-0003-0005
Bureau of Safety and Environmental Enforcement	DOI-2017-0003-0006
National Park Service	DOI-2017-0003-0007
Office of Surface Mining Reclamation and Enforcement	DOI-2017-0003-0008
U.S. Fish and Wildlife Service	DOI-2017-0003-0009
U.S. Geological Survey	DOI-2017-0003-00010
Other Interior agencies and offices	DOI-2017-0003-00011

You may then submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this feature of www.regulations.gov, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

Alternatively, you may submit comments by mail to: Office of the Executive Secretariat – ATTN: Reg. Reform, U.S. Department of the Interior, 1859 C Street, NW, Mail Stop 7328, Washington, DC 20240. Additional information on this effort can be found at www.doi.gov/regulatory-reform/implement.

FOR FURTHER INFORMATION CONTACT: Mark Lawyer, Office of the Executive Secretariat, (202) 208-5257, email: regulatoryreform@ios.doi.gov.

SUPPLEMENTARY INFORMATION:

Goals of the Regulatory Reform Initiative

E.O. 13777 establishes two main goals¹ for Federal agencies in furtherance of alleviating unnecessary burdens placed on the American people:

(1) Improve implementation of the regulatory reform initiatives and policies specified in section 2 of E.O. 13771 [E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs); E.O. 12866 (Regulatory Planning and Review), as amended; Section 6 of E.O. 13563 (Improving Regulation and Regulatory Review) regarding retrospective review; and termination, consistent with applicable law, of programs and activities that derive from or implement E.O.s, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded]; and

(2) Identify regulations for repeal, replacement, or modification considering, at a minimum, those regulations that:

- Eliminate jobs, or inhibit job creation;
- Are outdated, unnecessary, or ineffective;
- Impose costs that exceed benefits;
- Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- Rely, in part or in whole, on data or methods that are not publicly available or insufficiently transparent to meet the standard for reproducibility; or
- Derive from or implement E.O.s or other Presidential directives that have been subsequently rescinded or substantially modified.²

Interior's Progress and Plan for Regulatory Reform

¹ See Sec. 3(g) of E.O. 13777.

² See Sec. 3(d) of E.O. 13777.

To lead regulatory reform efforts at Interior, the Acting Chief of Staff established Interior's Regulatory Reform Task Force on March 15, 2017, pursuant to E.O. 13777. The Task Force is closely examining all regulatory actions that are currently in process and identifying potential deregulatory actions to ensure compliance with regulatory reform goals. Interior and the Task Force welcome public input on regulatory and deregulatory actions that could quantifiably lessen the burden on the American public.

A cornerstone of the Task Force's review of Interior's regulatory burden on the American public has been its thoughtful approach to Interior's regulatory portfolio. The regulatory portfolio includes significant regulations subject to retrospective review under Section 6 of E.O. 13563, meaning that they are periodically reviewed to determine whether they may be outmoded, ineffective, insufficient, or excessively burdensome. The Task Force is rolling these efforts into the larger regulatory reform effort to change or repeal unduly burdensome rules, as appropriate. The Task Force is also taking a holistic approach to ensure that each individual regulatory action it pursues and Interior's future regulatory portfolio as a whole advance the goal of alleviating unnecessary regulatory burdens placed on the American people, consistent with the law. The Task Force is accomplishing this by examining each regulatory action for alignment with the priorities of the Administration, the goals and requirements of applicable Executive Orders issued by the President, and Secretary's Orders issued by the Secretary of the Interior. This deliberate approach ensures that each semi-annual regulatory agenda published under E.O. 12866 will list only those regulations that the Department has a relatively high degree of confidence will move forward within the coming 12 months. With the publication of each semi-annual regulatory agenda, the public will have the opportunity to provide feedback, which the Task Force will consider as part of the regulatory reform effort. For individual regulations, the

Task Force also intends to make greater use of advance notices of proposed rulemaking (ANPRMs), where possible, to solicit input on the front end as to how any given regulatory action could be tailored to reduce or eliminate burden.

Part of the regulatory reform effort underway in Interior includes implementing the requirement known colloquially as the “two-for-one” requirement. This requirement was established by President Trump in E.O. 13771, and detailed in Office of Management and Budget (OMB) Interim Guidance issued February 2, 2017, and OMB Guidance of April 5, 2017. These documents require Federal agencies to: (1) issue two “deregulatory” actions for each new significant regulatory action that imposes costs; and (2) fully offset the total incremental cost of such new significant regulatory action. Interior is in the process of reviewing existing regulations (significant and non-significant) to identify actions that can be repealed. The cost savings associated with to-be-repealed actions will offset the costs of any new significant regulations that are necessary for promulgation; to account for these offsets, bureaus are working to quantify undue burden, where possible.

The Task Force has also taken initial steps toward deregulatory actions, using specific rule rescissions already identified through various means as a starting point for a more widespread reduction in regulatory actions. For example, the Task Force’s review will encompass actions that were initiated by the previous Administration and subject to repeal under the Congressional Review Act (CRA). The President approved a joint resolution of disapproval for the following regulations under the CRA:

- The Bureau of Land Management’s (BLM) Resource Management Planning; 43 CFR part 1600;

- The U.S. Fish and Wildlife Services’ Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska; 50 CFR Parts 32 and 36; and
- The Office of Surface Mining, Reclamation and Enforcement’s (OSMRE) Stream Protection Rule; 30 CFR Parts 700, 701, 773, 774, 777, 779, 780, 783, 784, 785, 800, 816, 817, 824, and 827.

Through Secretary’s Order No. 3349, American Energy Independence (Mar. 29, 2017), Interior announced its intention to review all existing actions that potentially burden the development or utilization of domestically produced energy resources and suspend, revise, or rescind such agency actions as soon as practicable. Interior’s review will also give particular attention to the four Interior rules related to United States oil and gas development that are identified in section 7 of E.O. 13783 (Promoting Energy Independence and Economic Growth). Specifically, Secretary’s Order 3349 provides that:

- BLM will proceed expeditiously with a proposed rule to rescind the final rule entitled “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands,” 80 FR 16128 (March 26, 2015).
- The National Park Service will review the final rule entitled “General Provisions and Non-Federal Oil and Gas Rights,” 81 FR 77972 (November 4, 2016);
- The U.S. Fish and Wildlife Service will review the final rule entitled “Management of Non Federal Oil and Gas Rights,” 81 FR 79948 (November 14, 2016); and
- The BLM will review the final rule entitled “Waste Prevention, Production Subject to Royalties, and Resource Conservation,” 81 FR 83008 (November 18, 2016).

The Office of Natural Resources Revenue has already taken the following actions in accordance with this objective:

- Published a proposed rule to repeal the “Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Rule” published on July 1, 2016 (81 FR 43338). See 82 FR 16323 (April 4, 2017).
- Published an Advance Notice of Proposed Rulemaking (ANPRM) on April 4, 2017 (82 FR 16325) seeking comments on whether revisions are needed to the regulations governing valuation, for royalty purposes, of oil and gas produced from Federal onshore and offshore leases and coal produced from Federal and Indian lands, and if revisions are appropriate, what specific revisions merit consideration.

Interior is also reviewing regulations to determine whether any require revision or rescission based on the mitigation policy review, climate change policy review, and review of other actions affecting energy development required by E.O. 13783.

Interior’s review also gives particular attention to the three Interior rules related to offshore energy that are identified in sections 7, 8, and 11 of E.O. 13795 (Implementing an America-First Offshore Energy Strategy). To implement E.O. 13795, Interior issued Secretary’s Order 3350, America-First Offshore Energy, which provides deadlines for review of the rules identified in the E.O. Specifically, the Secretary’s Order directs the Bureau of Safety and Environmental Enforcement and the Bureau of Ocean Energy Management to review:

- The proposed rule “Offshore Air Quality Control, Reporting, and Compliance” published on April 5, 2016. See 81 FR 19717;

- The final rule “Oil and Gas and Sulfur Operations in the Outer Continental Shelf – Blowout Preventer Systems and Well Control,” published on April 29, 2016. See 81 FR 25887.
- The final rule “Oil and Gas and Sulfur Operations on the Outer Continental Shelf – Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf,” published on July 15, 2016. See 81 FR 46478.

Secretary’s Order 3350 also requires identifying other rules that have been adopted or are in the process of being developed that relate to the above rules.

As it identifies any other potential deregulatory actions and their cost savings, the Task Force will consider input from the public as guidance for prioritizing its efforts. In the coming months, the Task Force will be working with the affected bureaus to calculate the cost savings from any repeal, replacement, or modification.

Request for Public Input

Interior is seeking public input on how it can best meet the above goals and, specifically, where redundancies and inefficient processes can be eliminated, while ensuring that Interior continues to fulfill our legal obligations, resource stewardship, and Tribal trust responsibilities and minimizes the risk of lengthy and costly appeals and litigation. E.O. 13777 requires the Regulatory Reform Task Force, in performing the evaluation of regulations to seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and Tribal governments, small businesses, consumers, non-governmental organizations, and trade associations. *See* § 3(e), E.O. 13777. To comply with this requirement and promote transparency in regulatory reform efforts, Interior has established a Regulations.gov docket to provide the public with the ability to provide comments on regulatory reform on an

ongoing basis. Interior encourages the public, and particularly anyone significantly affected by regulations, to provide input and assistance in identifying regulations for repeal, replacement, or modification that:

- Eliminate jobs, or inhibit job creation;
- Are outdated, unnecessary, or ineffective;
- Impose costs that exceed benefits;
- Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- Rely, in part or in whole, on data or methods that are not publicly available or insufficiently transparent to meet the standard for reproducibility; or
- Derive from or implement E.O.s or other Presidential directives that have been subsequently rescinded or substantially modified.

Periodically, Interior will review the written input to determine whether additional regulations should be targeted for review and considered for suspension, revision, or rescission.

Measuring Future Progress

To measure future progress, Interior will incorporate performance indicators for the regulatory reform initiative into Interior's annual performance plan under the Government Performance and Results Act. OMB has issued guidance regarding the appropriate performance indicators and established deadlines for setting targets for each of those indicators in the Fiscal Year (FY) 2018 and FY 2019 annual performance plans.

Authority

This notice is published pursuant to E.O. 13777, 82 FR 12285 (February 24, 2017).

Dated: June 15, 2017

James Cason,

Associate Deputy Secretary and Regulatory Reform Officer.

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