

From: Cason, James
To: [Rees, Gareth](#)
Subject: Fwd: Meeting Request
Date: Sunday, February 19, 2017 1:26:24 PM
Attachments: [Energy Regulatory Priorities.pdf](#)

Have you worked out a meeting time for API? Didn't want it to fall through the cracks.

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From: Holly Hopkins <hopkinsh@api.org>
Date: Fri, Feb 3, 2017 at 11:44 AM
Subject: Meeting Request
To: Jim Cason <James_Cason@ios.doi.gov>

Jim,

In December, API made a request to meet with the DOI Transition/Landing team to talk about issues and opportunities for the Trump Administration. This request was never fulfilled. We would like to again make the request to meet with you and other appropriate DOI political staff to discuss these issues. Attached outlines our top priorities. Please let me know what works for you and do not hesitate to call if you have questions. Have a great weekend.

Thanks,

Holly A. Hopkins

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ENERGY POLICY PRIORITIES

Executive agencies should implement policies that:

1. Promote access to domestic oil and gas resources;
2. Ensure the development of energy infrastructure;
3. Ensure streamlined, timely planning, permitting and project review;

Executive agencies should ensure that regulations:

1. Actually serve the regulatory purpose ;
2. Are cost-effective (costs do not outweigh the benefits);
3. Feasible;
4. Are well-defined and predictable;
5. Are scientifically supported;
6. Are consistent with statute;
7. Are not arbitrary;
8. Promote streamlined permitting;
9. Promote, rather than stifle, innovation;
10. Defer to industry standards and best practices where applicable;
11. Encourage investment in U.S. projects.

Executive agencies should defer to state agencies to oversee the regulation of drilling, completion and production of oil and natural gas. State agencies have a long history of regulating these activities, and they are best able to tailor the regulations to the unique geology, topography, hydrology and general social conditions that exist within the state.

Executive agencies should review the abuse of the Endangered Species Act (ESA) to ensure that it is not arbitrarily used to restrict economic opportunities. State governments have successfully worked with private industry to preserve species and habitat. Executive agencies should work with and defer to state governments as it relates to the ESA.

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	Priorities for Immediate Action			
1.	BLM Waste Prevention, Production Subject to Royalties, and Resource Conservation (Nov. 18, 2016, 81 Fed. Reg. 83008)	BLM	Rulemaking goes above and beyond BLM regulatory authority to propose air quality-related requirements unrelated to that authority, and impermissibly redefines long-standing principles of resource conservation that threaten to undermine existing lease rights and orderly development of oil and gas on BLM-managed lands. Efforts will be undertaken to repeal the rule.	Priority target for repeal.
2.	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources (NSPS OOOOa rule) (June 3, 81 Fed. Reg. 35824)	EPA	Final rulemaking directly regulates “methane” as a pollutant. Under the Clean Air Act, this triggers the development of a regulation to address <i>existing</i> sources across the segments. Regulation of existing sources should be avoided.	Judicial review ongoing. Potential revisiting of process EPA undertook that failed to demonstrate that the source category represents a “significant contribution” to endangering public health and welfare. Continue to work technical issues through administrative reconsideration process.
3.	BOEM Air Quality Control, Reporting and Compliance Rule <u>Final Rule has not been published yet.</u>	BOEM	Proposed rule was issued prematurely in advance of the completion of ongoing BOEM air quality studies. BOEM has not demonstrated to date that OCS sources significantly affect onshore air quality as required by OCSLA. BOEM needs to finish its ongoing air quality studies to	If final rule published before Obama Administration leaves office it should be repealed or withdrawn prior to implementation.

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			<p>determine appropriate level of regulation.</p> <p>The costs of the rule have been significantly underestimated.</p> <p>The proposed rule established an evaluation process that would increase the need for operators to perform costly stack testing and air quality modelling and could require retrofit of existing infrastructure or installation of new equipment which may not always be technically or economically. The proposed definition of “facility” was unworkable in that it lumped proximate sources together and treated them as one source. The rule also attempted to regulate emissions of mobile support craft (service boats) which is outside BOEM jurisdiction.</p>	<p>If final rule not published, the new administration should complete air quality studies prior to any further action.</p>
4.	<p>ONRR Amendments to Civil Penalty Regulations (August 1, 81 Fed. Reg. 50306)</p>	<p>Office of Natural Resources Revenue (ONRR)</p>	<p>In a variety of ways, this rule improperly and significantly increases liability on federal oil and gas lessees for minor and inadvertent reporting and recordkeeping errors. These changes not only are highly problematic for industry but also conflict with the will of Congress as expressed through the text and structure of the federal oil and gas royalty law. The desired outcome for this rule would be repeal and return to the status quo prior to its issuance.</p>	<p>The new administration can conduct a rulemaking that would repeal the rule.</p>
5.	<p>ONRR Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform (July 1, 2016 81 Fed. Reg.</p>	<p>ONRR</p>	<p>This rule creates uncertainty and imposes unsupported limits regarding the valuation of oil and gas production</p>	<p>The new administration can conduct a rulemaking</p>

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	43338)		for royalty purposes. Most significantly, it allows ONRR to second-guess payors' calculation of value and deductions. It also establishes inappropriate limits on deductions, including the elimination of a significant deduction for subsea transportation of production. The rule is positive in that it allows lessors to elect a simplified "index price" valuation in certain cases, but the implementation of that option is highly flawed. The desired outcome for this rule would be an improved "index price" option and elimination of other aspects of the rule.	that would repeal or amend the rule.
6.	BOEM/BSEE Oil and Gas and Sulfur Operations on the Outer Continental Shelf-Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf (July 15, 2016 81 Fed. Reg. 46477)	BSEE-BOEM	Overall these rules favor prescriptive requirement when performance-based requirements would better serve. Chief among these, the rule requires a standby relief rig for exploration drilling projects and does not consider other barrier technologies. The rules impose a requirement for a redundant planning document – the Integrated Operations Plan or IOP.	New Administration can repropose rule, or can pursue through new rulemaking the removal of the standby rig, IOP, cuttings discharge, and other problematic sections.
7.	Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category , 81 Fed. Reg. 124, 41845 (June 28, 2016) – published December 7, 2016.	EPA	The rule was problematic in several ways: 1) It offered no environmental benefits and possible environmental and consequences (POTWs are already prohibited from accepting waters outside their permitted discharge limitations but this would it would cause environmental harm by permanently removing one of the few discharge options by which industry can return	Candidate for repeal.

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			<p>water to the hydrologic cycle and deprive POTWs of the economic benefits of accepting discharge related flows within their permit limits merely because of the origin of the water); 2) relies on a definition of unconventional previously used at the federal level only for statistical purposes which conflicts with state definitions (causing unintended consequences); 3) was based on a limited and largely regional data set (ironically from one of the regions where the rule conflicts with the applicable state definitions); 4) relied upon insufficient analysis and procedure (with EPA failing to conduct the statutorily required analysis to support their circular logic); and 5) lacked internal coordination within EPA (EPA handled the issue separately from the larger ongoing study on the use of centralized waste treatment facilities, contrary to the holistic approach recommended in the hydraulic fracturing drinking water study).</p>	
8.	<p>BLM Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; <u>Site Security</u></p>	BLM	<p>Even with a new provision in the final rule to allow grandfathering of some very low production wells, this rule imposes significant costs on existing production, with the likelihood of expanding many site footprints, and with negligible federal revenue benefits. Retroactive application of the Proposed Rule will have profound effects both</p>	<p>Candidate for repeal. Alternatively, New Administration could repropose rule, providing for grandfathering existing facilities, or by setting higher production threshold</p>

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			legally and practically for thousands of existing well sites currently in operation. Retroactive application of the Proposed Rule may result in termination of many existing approvals potentially leading to premature cessation of existing production and raising breach of contract, due process, and takings issues.	for compliance.
9.	BLM Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Measurement of <u>Oil</u>	BLM	The prescriptive nature of the proposal's requirements, which repeats the error of the original Onshore Order No. 4 and will preclude implementation of newly developed measurement practices and technologies as they become available; the removal of critical standard-setting and adjudicatory functions from the notice-and comment rulemaking process, placing them instead in the hands of a BLM-appointed "Production Measurement Team" ("PMT") or leaving standard-setting to future BLM discretion. Timelines that ignore the practical difficulties – both for industry and the agency – associated with compliance. Removal of the enforcement regime from the regulations and placing it in as-yet unseen "guidance documents".	Candidate for repeal. Alternatively, New Administration could repropose rule, providing for grandfathering existing wells, extending compliance timeline, shifting to a performance-standard rather than prescriptive approach, or by setting higher production threshold for compliance.
10.	BLM Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Measurement of <u>Gas</u>	BLM	BLM's misapprehension of current industry standards, resulting in a proposal that requires adherence to a set of prescriptive standards that does	Candidate for repeal. Alternatively, New Administration could repropose rule,

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			<p>not accommodate current or future practices and technologies. BLM’s gross underestimation of the costs associated with implementation of the Proposed Rule, and imposition of compliance timelines that will be impossible to meet. Removal of critical standard-setting and adjudicatory functions from the notice-and-comment rulemaking process, placing them instead in the hands of a BLM–appointed “Production Measurement Team” (“PMT”) or leaving standard-setting to future BLM discretion.</p>	<p>providing for grandfathering existing wells, extending compliance timeline, shifting to a performance-standard rather than prescriptive approach, or by setting higher production threshold for compliance.</p>
11.	<p>Information Collection Effort for Oil and Gas Facilities (Methane and VOCs for existing sources) (September 29, 81 Fed. Reg. 66962)</p>	EPA	<p>EPA sent extensive information collection request to be conducted in two parts. Significant burden associated with ICR to complete within deadlines (60 days for Part 1 and 180 days for Part 2).</p>	<p>Continue to work with EPA to secure additional time for members to respond, secure clarifications as needed, and work with agency on data analysis and use.</p>
12.	<p>BLM Resource Management Planning (February 25, 2016, 81 Fed. Reg. 9674)</p>	BLM	<p>Planning 2.0—as a whole—changes the BLM’s resource management planning process, and introduces significant uncertainty into the process by numerous provisions that create ambiguous standards or otherwise expand agency discretion. A piecemeal approach to Planning 2.0 that precludes the public from being able to review, analyze, and comment on all the various components of the agency’s new</p>	<p>Candidate for repeal.</p>

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			planning approach that will modify or replace BLM’s current land use planning practices. A process redesigned by the Proposed Planning Rule would likely disfavor multiple use interests, including the development of oil and natural gas resources on public lands, by potentially subjecting each step in the process to a new round of objections by parties committed to opposition of resource development.	
13.	Final guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews , White House, Council on Environmental Quality, signed August 1, 2016.	CEQ	Greatly expands NEPA expanding GHG consideration for reviews of new and modified operations, and review could include very detached upstream and downstream GHG impacts. This goes well beyond the intended scope of NEPA, could be used as a tool to deny oil and gas development opportunities, and has been used as such a tool by industry opponents.	Rescission
14.	BOEM Financial Assurance NTL No. 2016-N01 , 81 Fed. Reg. 46599 (July 18, 2016).	BOEM	BOEM’s financial assurance NTL introduced a new methodology to evaluate the financial strength of a company that is flawed. The new policy also severely limits the ability of companies to self-insure to cover decommissioning liabilities and the agency has essentially placed the overwhelming burden of fixing a perceived problem on the industry. These problems are exacerbated by potentially flawed decommissioning	Publish a revised NTL with a new implementation plan. Consider need for rulemaking as appropriate.

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			<p>cost data being used to calculate liabilities.</p> <p>BOEM has recognized that there are problems with the NTL and is working to correct them. However, the implementation schedule currently in place will not allow sufficient time to adequately address all the issues.</p> <p>BOEM must establish a reasonable timeline for implementation that will allow the flaws to be corrected.</p>	
15.	<p>Presidential Memorandum “Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment”, the Presidential proclamation that set “no net loss” as a shorthand objective, and states that environmental goals (not simply positive environmental effects) are to be a criterion of future economic and national security actions. November 3, 2015 (80 FR 68743).</p>	<p>White House</p>	<p>Introduces criterion for federal permitting and project approval decisions that will be subject to widely varying interpretations, and that in many cases will countermand the direction of statute.</p>	<p>Seek revocation.</p>
16.	<p>FWS Revisions to the U.S. Fish and Wildlife Service Mitigation Policy (broad policy), originally published 81 Fed. Reg. 12,380 (Mar. 8, 2016). Final Policy published November 21, 2016 at 81 Fed. Reg. 83440. FWS-HQ-ES-2015-0126.</p>	<p>FWS-NMFS</p>	<p>The Policy applies to both listed and unlisted species, even though states are charged with the management of unlisted species.</p> <p>The Policy establishes a uniform mitigation goal that applies to all actions without distinguishing statutory limits and therefore may be applied inconsistently with statutory authority.</p> <p>The Policy’s preference for advance mitigation may delay project</p>	<p>Seek revocation.</p>

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			<p>authorizations if mitigation is unavailable at the time of impacts. The Policy does not clearly address how to reconcile its mitigation goal and elements with mitigation requirements of other agencies, such as those associated with permits under section 404 of the Clean Water Act. The Policy’s direction to avoid all “high-value” habitats may cause the FWS or other federal agencies to “veto” projects. Moreover, because the Policy does not clearly define what habitats are considered high value, the Policy may cause agencies to conservatively avoid more habitat than necessary.</p>	
17.	<p>FWS Draft Endangered Species Act Compensatory Mitigation Policy (specific to ESA impacts), originally published at 81 Fed. Reg. 61.032 (September 2, 2016). FWS-HQ-ES-2015-0165.</p>	FWS	<p>The Draft Compensatory Mitigation Policy violates the ESA. The Service’s decision to significantly expand the list of threatened and endangered species does not justify this expansive rewriting of the Service’s mitigation framework. The Draft Policy’s “no net loss/net gain” requirements, additionality requirements and mitigation ratios, advance mitigation requirements, and definition of “at-risk species” are inconsistent with and violate a number of federal environmental and wildlife statutes and policies. The Draft Policy is impermissible because it cannot be credibly construed as a mere policy statement or simply guidance to Service personnel. It is a proposed rule that, if</p>	Seek revocation.

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			finalized, would fundamentally change the Service’s compensatory mitigation requirements, create substantive new obligations, and expand the jurisdiction of FWS through interpretations of numerous statutes.	
18.	NOAA/NMFS Acoustic Criteria Technical Guidance , 81 Fed. Reg. 51694 (August 4, 2016).	NMFS	Guidance is difficult and costly to implement and unable to produce realistic metrics of impact and mitigation threshold ranges or exclusion zones. Significant changes to the thresholds applicable to low frequency (LF) cetaceans that is not consistent with the best available science. Many other technical problems that need to be addressed.	Retract and revise Guidance.
19.	2010 Congressionally-directed Study on the Relationship Between Hydraulic Fracturing and Drinking Water.	EPA	A draft Assessment report was released on June 4, 2015 with the key finding, <i>“the Assessment shows hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources.”</i> The SAB Panel provided its recommendation report to the Administrator on August 10, 2016 and a Final assessment was released on December 13 with a revised final conclusion that hydraulic fracturing activities <u>can</u> impact drinking water resources and EPA identifies factors that influence these impacts.	Recognition that extensive scientific data <u>does</u> exist to support EPA’s original topline conclusion and that no additional scientific work was undertaken by the Agency, following the SAB peer review, leading to the final revised conclusion.
20.	BSEE Oil and Gas and Sulfur Operations in the Outer Continental Shelf—	BSEE	There are still provisions of the final WCR that are problematic for industry.	New Administration can revise rule or issue

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	Blowout Preventer Systems and Well Control ; Final Rule 81 Fed. Reg. 25888 (April 29, 2016)		We look forward to working with the new Administration to address those provisions of the rule that are still unworkable. Whether through interpretations, clarifications or revisions to the rule.	guidance to ensure consistent and workable compliance.
21.	Clean Water Rule: Definition of "Waters of the United States," 80 Fed. Reg. 37,054, (June 29, 2015).	EPA and the U.S. Army Corps of Engineers	Problems with the final Waters of the U.S. Rule include: 1) the Rule is vague in describing features that are purportedly waters of the U.S. (e.g., "tributary," "adjacent waters," and "significant nexus"), leaving uncertainty which makes informed decisions impossible without case-by-case determinations; 2) the Rule is overly broad, including many land and water features not within the scope of reasonable interpretation under the Clean Water Act (CWA) and exceeding the Agencies' Authority under the Commerce Clause; 3) the Rule relied upon EPA's Connectivity Report, which was still under review by EPA's Science Advisory period during the entire comment period for the Rule and after the comment period closed, EPA made meaningful changes to the Connectivity Report , depriving the public of an opportunity to comment on or view the final scientific conclusions in the Connectivity Report during the comment period for the Rule and refusing to extend the comment period to allow for public comment period on this critical aspect of the Rule; 5) EPA	Seek revocation.

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			<p>used federal funds to engage in a substantial advocacy campaign for the Proposed Rule to influence Members of Congress, state government officials, and the general public through aggressive social media tactics that generated superficial support for the Rule through Twitter and Thunderclap, soliciting non-specific statements on clean water and treating these “comments” as support for the Proposed Rule; 6) EPA made substantial changes to the Rule between publication of the Proposed Rule and promulgation of the Final Rule without inviting additional comments from the public; and 7) EPA conducted a flawed cost-benefit analysis that dramatically underestimated and omitted certain key costs from the Rule and overestimated certain benefits of the Rule.</p>	
22.	<p>DOI/BOEM 2017-2022 Proposed Final 5-Year OCS Leasing Program, 81 Fed. Reg. 84612 (November 23, 2016).</p> <p>Presidential Withdrawal of Areas in Alaska and Atlantic pursuant to section 12(a) of the OCSLA. Announced on December 20, 2016.</p>	BOEM and White House	<p>No lease sales scheduled in Alaska or Atlantic OCS.</p> <p>Very questionable rationale for not including; record actually supports inclusion.</p> <p>Need to preserve 2017-2022 Program while we work to establish a new program that would include additional areas for leasing.</p> <p>New Administration should confirm that 600,000 plus comments supportive of an expansive program were submitted versus a great deal less in opposition.</p>	<p><u>Administration</u> – Begin development of new 5-year Program. Need to determine how far back in process we would need to go to add Atlantic and/or Alaska. Any other areas would likely need to begin at Step 1 of process (Call for Information).</p> <p><u>Congress</u> – Pass</p>

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			Section 12(a) decision removes prospective oil and gas region from consideration for future leasing programs.	legislation that directs additional sales to be held under the 2017-2022 Program. President should issue a Memorandum on Modification of the Withdrawal of Areas of the United States Outer Continental Shelf From Leasing Disposition, reversing the decision to withdraw the Alaska and Atlantic areas.
23.	NMFS, Proposed Incidental Harassment Authorization (IHA) Regulations for GOM Geological and Geophysical Activities	NMFS BOEM	Litigation settlement agreement allowing ongoing G&G activities in GOM expires on September 30, 2017. Regulations must be finalized by this date, and industry fully supports finalization of a reasonable final rule. However, recent BOEM document's (Draft PEIS and Rulemaking Petition) make the probability of a favorable regulatory outcome less likely. In addition, NMFS lack of progress on drafting the proposed rule makes it unlikely that the September 230, 2017 deadline will be met.	Need to assess legal options before an appropriate strategy recommendation can be made.
24.	Hydraulic Fracturing on Federal and Indian Lands , 78 Fed. Reg. 31,635 (March 26, 2015)	BLM	Duplicative with state regulatory requirements. Adds requirements that are not reflective of actual operations, geology or the science. Among other	Rule has been struck down in litigation; case is on appeal by the government. Rule

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			things, problematic issues include definition of usable water, integrity testing requirements, limitations on obtaining a variance for state regulations.	should be rescinded, or rule should be revised greatly to address technical issues and allow for variances for state regulations.
	Priorities for Action in Near and Long Term			
25.	OSHA Revisions to Process Safety Management Regulations	OSHA	OSHA is considering the expansion of its Process Safety Management regulations to drilling and completion activities, and it is also considering the removal of enforcement discretion over upstream production activities. OSHA's PSM regulations are not fully transferable and fit for purpose with upstream activities. Furthermore, various standards and regulations are in place to prevent safety incidents in the upstream area. Efforts are ongoing to review the safety data, determine if there are gaps, and work with OSHA to find the best, fit for purpose solution to fill any gaps.	New Administration should focus on the best safety approach for upstream activities.
26.	BSEE Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Oil and Gas Production Safety Systems; Final Rule 81 Fed. Reg. 61834 (September 7, 2016)	BSEE	There are still provisions of the final Production Safety System rule that are problematic for industry. We look forward to working with the new Administration to address those provisions of the rule that are still unworkable. Whether through interpretations, clarifications or revisions to the rule.	New Administration can revise rule or issue guidance to ensure consistent and workable compliance.

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27.	Joint U.S. Fish and Wildlife Service and National Marine Fisheries Service Habitat Conservation Planning Handbook	FWS-NMFS	<p>FWS and NOAA jointly published a proposed revision to the agencies' 'Conservation Planning Handbook' in June of 2016. API, joined by several other industry trades, submitted comments in July 2016. These comments requested that the Services withdraw the proposed Handbook because it prescribes an overly rigid framework that will stymie voluntary conservation efforts and stifle responsible development. The services should create an appropriate guide for streamlining the developing and processing of HCPs that incentivizes voluntary conservation, including efficient collaboration and participation in the HCP process, and that provides regulated entities with reasonable and rational means to achieving approval for incidental take programs within the Services' statutory and regulatory authority.</p>	<p>Seek withdrawal and reproposal</p>
28.	FWS Draft Policy on Interpretation of the Phrase "Significant Portion of its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species," originally published at 76 Fed. Reg. 76987 (Dec. 9, 2011). Final Policy published July 1, 2014. FWS-R9-ES-2011-0031.	FWS	<p>Additional clarification is required in some instances. These include rigorous administration of the "high threshold" standard, if the standard is not to result in overprotection of species in areas where they are not under threat. The Services should modify the Draft Policy to create a strong presumption that critical habitat will be designated <i>only</i> within the SPR, if conditions within the SPR represent the basis for listing; and</p>	<p>Seek reproposal to address problematic issues.</p>

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			to allow under certain conditions for the listing, as threatened, of a species that qualifies as threatened based on its status in all of its range, but is endangered in an SPR.	
29.	Arctic National Wildlife Refuge, Alaska; Revised Comprehensive Conservation Plan and Final Environmental Impact Statement , published 80 Fed. Reg. 4303 (January 27, 2015). FWS–R7–R–2012–N207.	FWS	ANILCA restricts executive authority to consider additional conservation units (including new wilderness areas) in Alaska except as authorized by ANILCA itself or further acts of Congress. With specific reference to the coastal plain of the Arctic NWR, where Congress has not at this time authorized oil and natural gas development to take place, experience in other areas demonstrates that the missions of the USFWS for wildlife conservation and ecosystem management, and oversight of recreational and subsistence uses can be achieved without designation of the coastal plain as wilderness.	Seek revocation
30.	NOAA Arctic Vision and Strategy (February 2011), now integrated into NOAA Arctic Research Program and Arctic Action Plan. RIN 0648-XT64.	NOAA	Arctic policy decisions should avoid subjecting management of the region to new layers of government bureaucracy, or additional laws, regulations, or the creation of new advisory groups with unclear mandates that could lead to inter-agency disputes over interpretation and jurisdiction. Arctic policy should recognize that in addition to the obvious living resources, the region also contains significant mineral resources that support many industries that are crucial to maintaining a healthy	Support modification or revocation as called for by State of Alaska and Alaska delegation.

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			economy for the nation and the world. Properly regulated and managed, development of this strategically important energy resource can take place, and the vast majority of the U.S. Arctic region can remain available to the American people for multiple uses – subsistence, recreational and commercial.	
31.	FWS Proposed Policy to Incentivize Voluntary Pre-listing Conservation Actions , originally published at 79 Fed. Reg. 42,525 (July 22, 2014). FWS–R9–ES–2011–0099.	FWS	FWS needs to decrease the administrative burdens inherent in implementing conservation programs and credit marketplaces by allowing these programs to be developed and implemented by the States and other qualified entities in a robust, transparent, and collaborative process. The Service’s role should be limited to overseeing the States to ensure consistency, transparency, and efficiency. FWS can, and should, do so through funding, technical assistance, clear criteria for approval of plans, program models and templates, effective lines of communication, an easily accessible database of approved plans, and adherence to mandatory deadlines for approvals. The FWS should also take steps to make its proposed policy flexible, by providing landowners the ability to choose whether their conservation actions will be used to generate credits per the proposed policy or count as enrollment in a CCAA.	Support modification of policy consistent with comments submitted.

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32.	<p>Secretarial Order 3330 “Improving Mitigation Policies and Practices of the Department of the Interior,” called for the development of a DOI-wide mitigation strategy, which would use a landscape-scale approach to identify and facilitate investments in key conservation priorities in a region.</p> <p>October 31, 2013.</p>	DOI	<p>This order called for the development of a DOI-wide mitigation strategy, which would use a landscape-scale approach to identify and facilitate investments in key conservation priorities in a region. This order should be withdrawn, and its call for “landscape scale” carefully evaluated with respect to possible conflicts with other laws that direct the actions of DOI agencies. It should only be republished if any such conflicts are addressed in favor of the existing statutory mandates.</p>	Seek revocation
33.	<p>“The Department of the Interior Climate Change Adaptation Plan for 2014” (Climate Change Adaptation Plan), provides guidance for implementing 523 DM 1 and “Executive Order No. 13653 – Preparing the United States for the Impacts of Climate Change”, (78 FR 66819). January 2014 (not published in the Federal Register).</p>	DOI	<p>This plan provides guidance for implementing 523 DM 1 and “Executive Order No. 13653 – Preparing the United States for the Impacts of Climate Change”. It should be withdrawn and any subsequent climate change plan should be carefully examined so as not to conflict with existing statutory and regulatory mandates.</p>	Seek revocation
34.	<p>“Interior Policy Document: Implementing Mitigation at the Landscape Scale”, directs agency officials (all bureaus and agencies) to use compensatory mitigation to offset impacts to public lands and to tailor mitigation actions to anticipate and address the impacts of climate change. October 23, 2015, 600 DM 6.</p>	DOI	<p>This document should be withdrawn and any successor document should only be put forward if it is determined that such a document does not conflict with any existing statutory and regulatory mandates.</p>	Seek revocation
35.	<p>Memorandum for Executive Departments and Agencies</p>	DOI	<p>This memorandum directs agencies to develop and to institutionalize policies</p>	Seek revocation, review and

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	<p>“Incorporating Ecosystem Services into Federal Decision Making”, October 7, 2015, M-16-01.</p>		<p>to promote ecosystem services (defined as benefits flowing from nature to people) where appropriate and practicable, in planning, investment, and regulatory contexts. What is not made clear is the priority to be given this directive in the context of the statutory direction given those same DOI agencies by their governing statutes.</p>	<p>republication</p>
36.	<p>Proposed Special Rule for the Polar Bear Pursuant to Section 4(d) of the Endangered Species Act, originally published at 77 Fed. Reg. 23432 (April 19, 2012). Final Rule published 78 Fed. Reg. 11766 (February 20, 2013 FWS-R7-ES-2012-0009.</p>	FWS	<p>The polar bear has been managed for years under the synchronized ESA, MMPA and CITES regime. The protections afforded by the MMPA, CITES, and the ESA are more than sufficient to conserve, recover, and manage the polar bear. A revised final Rule should restate the FWS’s well-founded position that the Rule does not require consultation simply on the basis of facilities’ GHG emissions. And, based upon this same reasoning, any final Rule should likewise make clear that Section 9 take cannot be triggered by GHG emissions. The critical habitat for the species should be limited to those identifiable areas that “contain features essential to the conservation of the polar bear and that may require special management and protection” – <i>NOT</i> the species entire marine range.</p>	<p>Seek reproposal with critical habitat toed to discrete areas actually frequented by polar bears.</p>
37.	<p>Resource Management Plans and Final Environmental Impact Statements for various BLM Planning Areas (Greater</p>	BLM	<p>The land use plan amendments (LUPAs) do not balance conservation of the GSG and elevate conservation of the GSG</p>	<p>Evaluate for revocation or revision through new</p>

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	<p>Sage Grouse land Use Plan Amendments), originally published at 80 Fed. Reg. 30,709 (May 29, 2015) (BLM Notice of Availability); 80 Fed. Reg. 30,676 (May 29, 2015) (EPA Notice of Availability).</p>		<p>above all other land uses in a manner wholly inconsistent with multiple use management. The LUPAs will severely restrict oil and natural gas development on many existing federal leases across GSG habitat. The LUPAs violate FLPMA and (where applicable) the National Forest Management Act because the Agencies have not afforded the public a meaningful opportunity to comment on the new components of the Proposed LUPAs. Also, in certain plans, the requirement that mitigation achieve a “net conservation gain” is inconsistent with FLPMA. The LUPAs inappropriately attempt to modify existing oil and gas leases, to unilaterally modify existing contract rights, to impose restrictions on existing leases that deny development or render development uneconomic, and to impose uniform conditions on existing leases that are not based on site-specific development. The LUPAs are inconsistent with the Energy Policy Act of 2005 and, in certain plans, improperly cede authority over oil and gas operations on federal leases to the FWS.</p>	<p>rulemaking action in the context of the importance the LUPAs have to the FWS no-list decision.</p>
38.	<p>Release of Final Control Technique Guidelines for the Oil and Natural Gas Industry (October 27, 81 Fed. Reg. 74798)</p>	EPA	<p>Initiates states to incorporate control requirements for existing oil and gas sources within ozone implementation plans where non-attainment is moderate or above (or in OTR).</p>	<p>Work with EPA to determine whether final CTGs were prematurely finalized before adequate information on</p>

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				existing sources was collected.
39.	Environmental Integrity Project Petition to add Upstream Oil and Gas Operations to Toxic Release Inventory (TRI) under EPCRA.	EPA	Petition filed by industry on October 24, 2012. EPA did not formally respond but did separately included TRI review of upstream sector in its 2013 regulatory agenda. On January 3, 2014 EPA published a notice of receipt of this petition and established a formal docket number to be used to view the petition and related documents. On January 7, 2015, EIP filed suit to compel EPA to make a decision on the petition. After almost a year of legal activity, on October 22, 2015 EPA denied all aspects of the original petition except with respect to natural gas processing facilities. EPA plans to move forward with a rulemaking process to add natural gas processing plants to the TRI program in 2017.	Support modification of rulemaking based on comments submitted
40.	Hydraulic Fracturing Chemicals and Mixtures ANPRM originally published at 79 Fed. Reg. 28664 on May 19, 2014 with a comment period extension published at 79 Fed. Reg. 40703 on July 14, 2014.	EPA	Agency requested information that should be reported or disclosed for hydraulic fracturing chemical substances and mixtures and the mechanism for obtaining this information under TSCA 8(a) or 8(d) or both. The information that would be collected under a TSCA section 8(a) and/or 8(d) rule for chemicals and mixtures used in hydraulic fracturing is already available to EPA. The Agency has more toxicity and exposure information on the additives used in	Support modification of rulemaking based on comments submitted.

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			hydraulic fracturing than it has on many other existing chemicals, and available information is more detailed and extensive than information typically collected under TSCA.	
41.	Proposed Data Collection Submitted for Public Comment and Recommendations of a Proposed Information Collection Plan on “Health Risks for Using Private Water Wells for Drinking Water , originally published at 81 Federal Register 12902 on and released as an ICR on March 11, 2016 and Submitted an Information Collection Request to OMB on the same topic on June 22, 2016 (81 Federal Register 40703).	CDC	In the notice, the plan includes a serious lack of detail regarding a tremendous number of variables which are sure to affect the outcome of the investigation – including the unintended consequence of attributing water contamination to operations simply due to a very poor survey tool.	Support modification of Plan based on extensive comments submitted.
42.	Greenhouse Gas Reporting Rule (GHGRP): Leak Detection Methodology Revisions for Petroleum and Natural Gas Systems (Subpart W)	EPA	Finalized three new reporting requirements and added two new monitoring methods for detecting leaks from oil and gas equipment for facilities conducting equipment leak surveys in all of the segments subject to reporting under Subpart W. EPA needs to preserve consistency of measurements and emission estimation methodology among sites, basins and nationwide as well as with NSPS Subpart OOOOa.	Petition to Reconsider being considered.
43.	Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard FEMA Policy 078-3 81 Fed. Reg. 57,402 (Aug.	FEMA	With discretion left to individual governmental agencies, there is a potential for an assortment of floodplain definitions as each of these jurisdictional entities attempt to apply the new risk-based approaches. Also,	Consider placing on hold or revoking the guidance (if finalized prior to the new administration).

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	22, 2016); FEMA Policy: Guidance for Implementing the Federal Flood Risk Management Standard, 81 Fed. Reg. 56,558 (Aug. 22, 2016).		the Regulatory Evaluation associated with the Proposed Rule uses data that is limited to coastal residential communities, greatly underestimates costs associated with this Proposed Rule and Supplementary Policy, and does not quantify benefits. The Guidance is needless - current FEMA rules, policy and maps already consider varying meteorological, land development, erosion and other causes; and maps are constantly being updated to reflect current conditions and technological advances. Limiting language in EO 13690 which states "to the extent permitted by law," FEMA's seeming obligation to amend existing regulations under the order is not absolute.	Also possibly consider revoking the underlying Executive Order 13690.
44.	NOAA/ONMS Flower Garden Banks National Marine Sanctuary Expansion DEIS, 81 Fed. Reg. 37576 (June 10, 2016).	ONMS	Proposed expansion well beyond recommendation of Sanctuary Advisory Committee. Agency needs to reengage with SAC/stakeholders to establish common ground, explain why additional areas are warranted.	Halt work on expansion.
45.	NOAA Ocean Noise Strategy Roadmap , http://cetsound.noaa.gov/road-map , (June 1, 2016).	NOAA	There is a need for more baseline data and scientific study of potential acoustic effects and impacts, and a need to better coordinate, collaborate and share information within agencies and among all stakeholders. However, much of the ONS Roadmap is premised upon unwarranted policy assumptions that the desired goal is a return to pre-	Retract and revise Framework.

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			<p>human conditions instead of balanced use of ocean resources; existing statutory mandates; regulatory measures are inadequate despite ongoing successes, and that an un-mandated comprehensive ocean noise regulatory regime may somehow be cobbled together and scaled up through unilateral actions of NOAA to address assumed chronic and cumulative potential acoustic impacts for which there is little to no scientific evidence. Need to have a Framework to promote an approach that has a better balance between precautionary environmental policy and multiple ocean users.</p>	
46.	<p>National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes (July 19, 2010). Executive Order 13547.</p>	CEQ	<p>Established the National Ocean Policy, including creation of Regional Planning Bodies (so far only present in Northeast and Mid-Atlantic. West Coast beginning to form.</p> <p>Framework for development of ocean policy already exists under current statues and regulations.</p> <p>No understanding of how federal actions will be influenced by regional ocean plans.</p> <p>Lack of Congressional oversight.</p>	Revoke Executive Order
47.	<p>NOAA Marine Sanctuary Nomination Process, 79 Fed. Reg. 33851 (June 13, 2014). RIN 0648-BD20.</p>	ONMS	<p>Controlled Sanctuary Evaluation List (SEL) process and selection criteria discontinued and replaced with a "...more grassroots, 'bottom-up' approach..."</p> <p>Purpose of NMSA is to establish high</p>	Eliminate current program. Reinstate SEL process.

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			quality sites of national significance, not to generate multiple nominations that fail to meet NMSA standards and consume valuable and limited agency resources.	
48.	NOAA Framework for the National System of Marine Protected Areas , 80 Fed. Reg. 16626 (March 30, 2015).	ONMS	There appears to be greater weight toward promoting the creation of new MPAs over enhancing the effectiveness of existing MPAs. There is more of an emphasis on ecological networks (i.e., on species rather than enhancing efficiencies). There is limited guidance on how to address the lack of monitoring and evaluation of the current program.	Retract and Revise Framework.
49.	Critical Habitat Designation for Loggerhead Sea Turtle , originally published at 79 Fed. Reg. 39755 (FWS - coastal areas) and 79 Fed. Reg. 39855 (NMFS – marine areas) on July 10, 2014. RIN 0648-BD27 and RIN 1018-AY71.	NMFS FWS	Loggerheads in the DPS are meaningfully protected through a wide variety of overlapping multi-jurisdictional, multi-industry restrictions, prohibitions, and conservation measures that have led to historic levels of loggerhead nesting and abundance. Designation of the sargassum habitat cause the proposed critical habitat designation to be the largest in the history of the ESA, it would be based on physical and biological features that are poorly understood, ephemeral, and largely disconnected from the post-hatchling populations it is intended to protect.	Need legal analysis to determine full range of possibilities.
50.	Notice to List the Gulf of Mexico Bryde’s Whale as Endangered , 81 Fed.	NMFS	Comments under development.	Need legal analysis to determine full range

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	Reg. 88639 (December 8, 2016). RIN 0648-XD669.			of possibilities.
51.	FWS Revised Candidate Conservation Agreements with Assurances Policy , originally published, 81 Fed. Reg. 26,817 (May 4, 2016). Policy has not been finalized to date. FWS-HQ-ES-2015-0177	FWS, NMFS	Any changes to the Policy must further the overarching goal of CCAAs: to encourage early and voluntary conservation. The Services should not incorporate a “net conservation benefit” standard into the CCAA policy, which is ambiguous and which undermines assurances provided in CCAAs and their associated permits. The draft revised policy makes so many significant changes to existing policy that it fails to comply with the requirements of the Administrative Procedure Act.	Seek revocation.
52.	FWS Eagle Permits; Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests , originally published at 81 Fed. Reg. 27933 (May 6, 2016). Final rule published December 16, 2016. FWS–R9–MB–2011–0094.	FWS	Where possible, FWS should encourage and expand the use of BMPs appropriate to protection of eagles under Avian Protection Plans. FWS should devote its resources to develop flexible but effective APP guidelines for the oil and gas industry operations located in the vicinity of eagle roosts or nests similar to the guidelines developed for the electric utility industry.	Seek modification of the rule to address major issues.
53.	Various Other ESA Species of Concern	FWS	Including, but not limited to: Greater Sage Grouse Lesser Prairie Chicken Dunes Sagebrush Lizard Northern Long Eared Bat, and candidate species among pollinators,	Species specific, but will include engagement with the agencies, litigation, and science based advocacy. Consider

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			fresh water mollusks, and marine mammals.	research and gathering data on threats to species and habitats commonly alleged in important O&G areas, and on threats commonly attributed to O&G operations to be in a position to refute common and inaccurate assumptions in order to best assure license to operate.