Election 2016: Environment, Energy & The Economy
Business & Environmental Policy Perspectives

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Business Needs to Learn from the Wisest...

"If I let you write substance and you let me write procedure, I’ll screw you every time.”

- Rep. John Dingell (D-MI)

Served in Congress: 1955 - 2015
Longest Serving Member: 59 years, 21 days
How does economic growth occur when a Federal Regulatory Agency can:

- Retroactively veto environmental permits
- Preemptively veto environmental permits
- Violate Federal Anti-Lobbying statutes in its rulemakings
- Commandeer state resources without adequate funding
- Mandate state energy mix under Clean Power Plan
- Control over 90% of U.S. land mass by regulating “Waters of the U.S.” and endangered species
- Control who can build and where under ozone non-attainment
- Allow environmental groups to control agency policy through citizen suits and “sue and settle” agreements
Cumulative Final Rules

Since 1976

Cumulative Final Rules
Final Rules
Why are EPA Regulations the Focus of Wrath?

In 2014, the CFR had a total of 173,310 pages (excluding pages with no actual regulatory text). By a wide margin, Environmental Protection regulations were the largest category. However, the categories Environmental Protection, Wildlife and Fisheries, Navigable Waters, Mineral Resources, and Public Lands account for 25% of all CFR pages.

Since 2000, EPA has added over $118 billion in annual regulatory costs.
## Citizen Suits

### 42,000 Pages of Regulatory Details to Litigate

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<th>Statute</th>
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<td>Ocean Thermal Energy Conservation Act</td>
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<td>Safe Drinking Water Act</td>
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<td>Surface Mining Control and Reclamation Act</td>
<td>30 USC § 1270</td>
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<td>Toxic Substances Control Act</td>
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Between 2009 and 2016, EPA chose not to defend itself in over 110 lawsuits form special interest advocacy groups. These cases resulted in settlement agreements and EPA publishing more than 140 new regulations – including the Clean Power Plan.
It’s the States

- States implement 96.5% of EPA’s delegated regulatory programs
- States conduct 90% of all environmental inspections, enforcement actions, data collection and issue the vast bulk of permits needed to construct.
Figure 6 - Percent Change in Cost of EPA Rules vs. Categorical Grants to States 2004-2015

- Cost of EPA Regulations: +35%
- Categorical Grants to States: -29%
EPA Rules with Acknowledged Mandates on States: 2000-2015

There were 8,733 rules finalized between 2000 and 2015, of which 50 had a formal Regulatory Impact Analysis (RIA). Of the 50 RIA rules, EPA only found that the rule had a federal mandate to the states under UMRA in 6 cases.
The End Result

Source: Calculated by the Texas Commission on Environmental Quality

Projected 8-Hour Ozone Nonattainment Areas

Number of Species
- 1-40
- 41-70
- 71-77
- 78-108
- 109-150

Source: EPA, August 2020
What can we do?

1. Regulatory Accountability Act
2. Sue and Settle
3. Review Act
4. Return Standing to its Constitutional standard
5. Ensure that before courts grant “deference” there is a finding of agency compliance with all congressional regulatory reform requirements
If you want more information on Regulatory Process
Visit: www.uschamber.com/etra