



Just Because You Can, Doesn't Mean You Should: Regulations Closer to Being Undone With Congressional Review Act

By: [Michael Cross](#)

After eight years of regulatory overreach and efforts to expand administrative agency authority, Congress has taken the first step in overturning burdensome Obama Administration environmental policies. Using the [Congressional Review Act](#) (“CRA”), the House of Representatives and Senate have voted to disapprove the Bureau of Land Management’s (“BLM”) Planning 2.0 Rule. The disapproval resolution now heads to the White House, where Planning 2.0 can be taken off the books with President Trump’s signature.

The CRA was passed in 1996 as part of Speaker Newt Gingrich’s “Contract With America,” and was intended to provide Congressional oversight of administrative regulation. The CRA requires administrative agencies to present Congress with a report on proposed rules. After receiving the report, both the House of Representatives and the Senate have the independent ability to pass a resolution of disapproval and send the disapproval resolution to the President for signature. If signed by the President, the rule does not take effect or does not continue. Given the difficulty in getting a President to overturn a regulation, only one administrative rule has been overturned since the CRA’s passage.

On January 30, 2017, Representative Liz Cheney introduced a disapproval resolution to the BLM Planning 2.0 Rule in the House of Representatives, and Senator Lisa Murkowski introduced a disapproval resolution in the Senate. On February 7, 2017, the House passed its disapproval resolution, and on March 7, 2017, the Senate passed its counterpart.

The BLM Planning 2.0 Rule was touted by the Obama Administration as a way to increase public involvement early in the planning process. However, opponents of the rule were concerned that it moved the land planning process away from states and local communities to Washington, D.C., lengthened the planning process, and weakened the impact of Governor Consistency Reviews.

The House also passed a disapproval resolution concerning the BLM natural gas venting and flaring rule on February 3, 2017. Senator John Barrasso introduced the CRA disapproval resolution in the Senate, but the Senate has not yet voted on the matter. Proponents of the venting and flaring rule claim that the regulations would prevent waste and increase royalties received from operations. However, states already regulate venting and flaring, and estimates of royalties are based on prices not seen in the market and do not take into account the costs to implement

the regulations—costs that would result in wells being shut in (further lowering royalties and taxes).

Utilizing new, more efficient technology, industry has taken voluntary steps to lower emissions—the Environmental Protection Agency acknowledged that emissions from the oil and gas sector were down 16% between 1990 and 2015, despite increases in production. Furthermore, states have enacted regulations related to emissions, hydraulic fracturing, and other oil and gas operations. Despite these steps, the Obama Administration decided to introduce numerous regulations on the oil and gas industry not because it had to, but because it could. These regulations hurt businesses, slow job creation, and increase uncertainty. Now, Congress has taken steps to undo some of these unnecessary regulations with the CRA.

For more information or updates on CRA, please contact [Michael Cross](#).

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