

Your Wish is My Command

Corporate Capture of the Regulatory Process Evident in
Trump's First Two Years

Acknowledgments

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Executive Summary

President Donald Trump's administration has enabled unprecedented corporate capture of federal regulatory agencies. Instead of protecting the public, agencies have rolled back a multitude of health, safety, environmental and consumer protections at the behest of corporate special interests.

This report documents how a big business group's deregulatory wish list turned into the Trump administration's deregulatory playbook. Deregulation is often more than simply eliminating government rules and safeguards. In a complex regulatory system, deregulation is more nuanced – and the deregulatory actions that are most beneficial to industry are not always the most clear cut. This report documents the full range of actions taken by federal agencies that were directly responsive to the wishes of corporate special interests.

Shortly after Trump's inauguration in 2017, the National Association of Manufacturers (NAM), an influential industry trade association, sent the Trump administration a list of 132 regulations that concerned NAM members and detailed NAM's preferred course of action to address its concerns on each of the regulations. Public Citizen compared the NAM wish list to actions the administration has taken. The results are clear: in two short years, the Trump administration has acted on the overwhelming majority of NAM's wishes through deregulatory actions taken by federal agencies.

Public Citizen's analysis found that the Trump administration has been responsive in implementing 85 percent of the items on NAM's wish list that involved rulemaking, and overall, has been responsive in implementing 64 percent of all the items on NAM's wish list. NAM targeted many of the most important regulations that protect consumers, workers, and the environment such as the EPA Clean Power Plan and Clean Water rule, the FCC Net Neutrality Rule, and the NLRB Joint Employer Standard. As the report details, the Trump administration has done NAM's bidding at the expense of protecting the public.

While this study focuses on the administration's high degree of responsiveness to the NAM wish list, NAM is hardly the only big business trade association to have called for deregulation that benefits its corporate members. Other multi-industry trade associations, like the U.S. Chamber of Commerce, and industry specific trade associations have made similar requests for deregulatory actions that overlap with the NAM wish list. Indeed, NAM's wish list is reflective of the broader corporate deregulatory agenda.

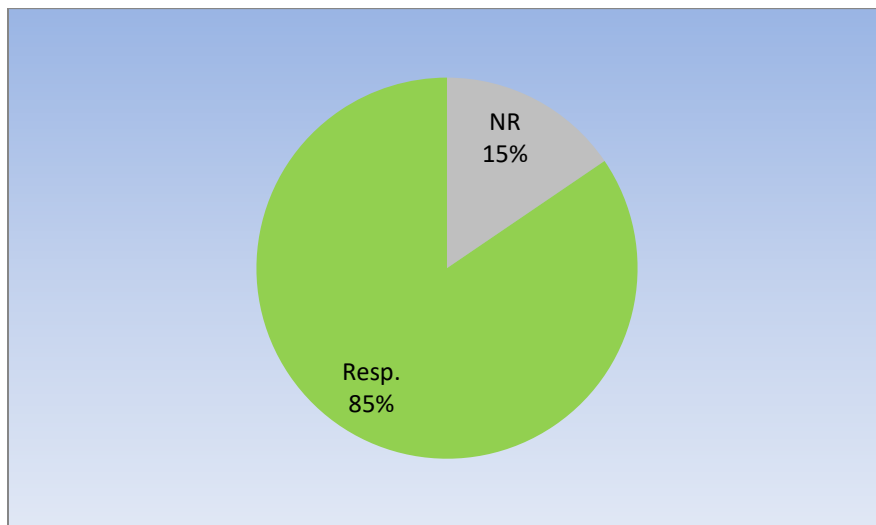
This report shows that the Trump administration's deregulatory agenda has been anything but the populist agenda that Trump claimed on the campaign trail. In fact, Trump's deregulatory agenda has been nothing but a corporatist agenda where big business lobby groups like NAM are both the source and beneficiary of regulatory roll backs that hurt consumers, workers and the environment. This report shows that under Trump, our government is working for corporate special interests, not hardworking Americans and their families.

Part I. Results

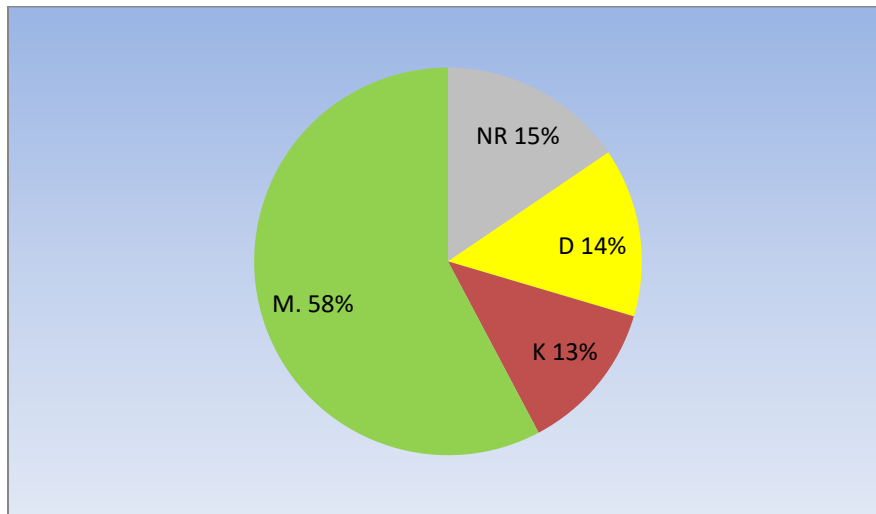
NAM identified a total of 132 discrete regulatory items that it wanted the Trump administration to act on, accompanied by NAM's requested course of action. Of those items on NAM's wish list that are connected to official agency rulemakings, the Trump administration has fulfilled NAM's requested course of action almost nine out of ten times.

Slightly more than half of the total NAM wishes, 71 out of 132, could be associated with a Regulation Identification Number (RIN), indicating connection to a major rulemaking. 85 percent of RIN-associated rules were connected to a responsive agency action.

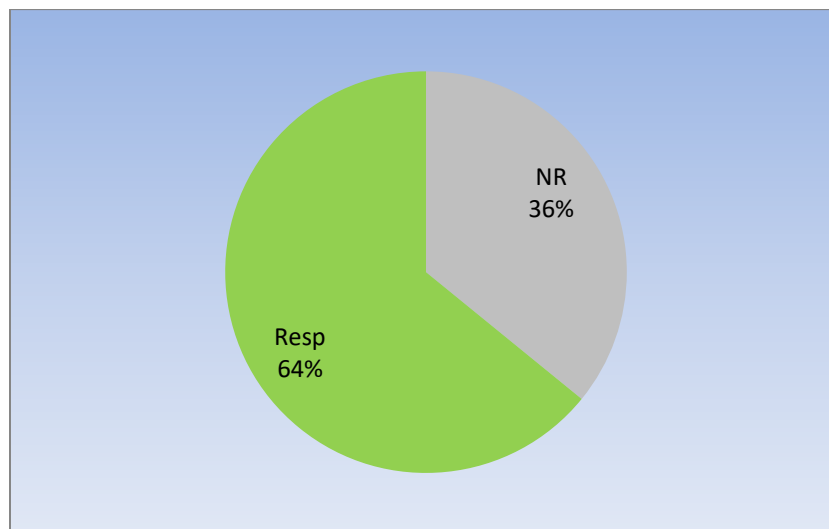
Figure 1: Responsiveness of Wishes Connected to Major Rulemakings (i.e. RIN Associated)



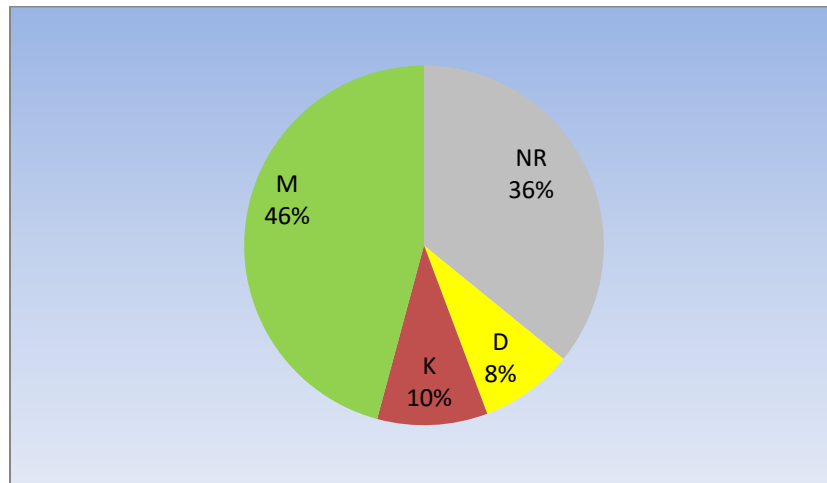
Almost 60 percent of RIN associated rules were modified (M) in response to industry wishes, meaning the agency acted in accordance with or in the direction of the wishes set out in NAM's wish list. Agencies acted to delay (D) or simply kill (K) about 30 percent of RIN associated rules identified in the NAM wish list.

Figure 2: Responsiveness Ratings for All RIN Associated Rules

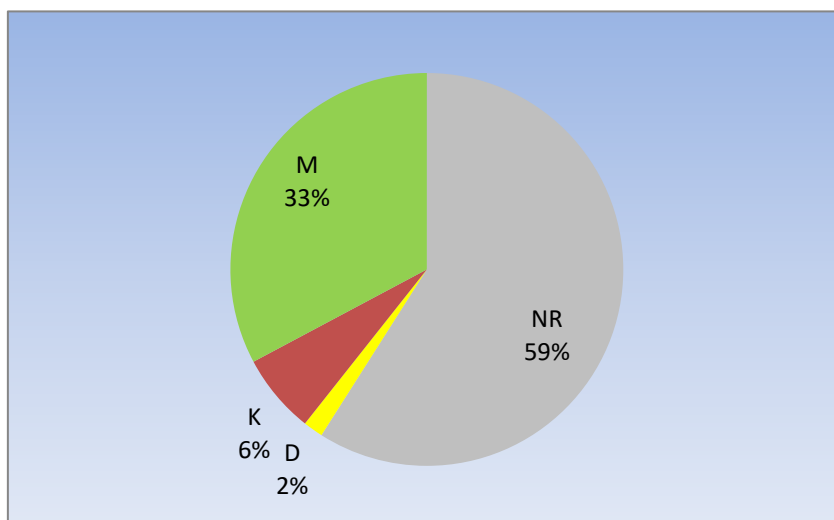
Of all 132 items on NAM's wish list, including regulatory actions that are not official agency rulemakings, 64 percent of those NAM requests have so far been granted by the Trump administration. Federal agencies were responsive to 64 percent of the 132 total wishes laid out by NAM.

Figure 3: Overall Responsiveness (RIN and Non-RIN Associated)

Of the total wishes, almost half (46 percent) were rated as a responsive rule modification. Ten percent of the total actions were rated as an outright rule withdraw, 8 percent of the total wishes resulted in a delay in the regulatory process.

Figure 4: Responsiveness Ratings for All Rules (RIN and Non-RIN Associated)

Slightly less than half of NAM's total wishes, 61 out of 132, were not associated with a RIN. Almost 60 percent of NAM wishes not associated with a RIN were rated as non-responsive, indicating a lower level of responsiveness for non-major rulemakings. In other words, less responsive action was taken on rules with a small economic impact or legal significance. Actions on some non-RIN associated wishes were unavailable to researchers because the wishes related to non-public internal agency guidance or policy. For example, NAM asked that the Federal Railroad Administration (FRA) withdraw an informal guidance to industry regarding positive train control hours of service. It's possible the FRA has taken internal, non-public action on the guidance or simply used its discretion to stop enforcing the terms of the guidance. Despite that possibility, the action was rated as non-responsive.

Figure 5: Responsiveness Ratings for Non-RIN Associated Actions

The overall results of this report document a remarkable level of responsiveness between Trump's deregulatory actions and industry wishes. Part II describes how Public Citizen measured and

quantified responsiveness based on NAM's wish list. The high level of corporate influence on the regulatory process is alarming, but it's also important to maintain focus on what those changes entail. Part III drills down into key individualized cases where industry wishes were granted through the regulatory process, to the detriment of the environment, safety, workers and the American public.

Part II. Research Method

To examine regulatory responsiveness, Public Citizen created a research method built on publicly available sources and applied it to NAM's wish list, submitted to the U.S. Department of Commerce (DOC) at the start of the Trump administration.

Responsiveness is defined as an agency action that fulfills industry's exact wish or agency action that indicates movement towards fulfillment of an industry wish. For example, NAM specifically asked for the withdrawal of the U.S. Department of Agriculture's (USDA) Grain Inspection Packers and Stockyards Administration (GIPSA) enforcement rule. USDA withdrew the rule – an action that shows clear responsiveness. In a more ambiguous but also responsive instance, NAM asked for a change in the EPA's calculation and enforcement of ozone emissions standards. In response, EPA issued a request for information as a first step to review and ultimately change the standard.

There are a variety of ways a federal agency can execute laws as directed by Congress. The range of agency action runs the gamut from using notice-and-comment rulemaking procedures under the Administrative Procedure Act (APA) to issuing a press release or other public statement indicating a position on a particular issue. This report uses publicly available data to measure agency responsiveness to industry wishes by sorting agency actions related to a rule or policy into two general categories: responsive and non-responsive. Within the responsive category, there are three subcategories: delay, kill or modify.

	Responsive-Delay	Unified Agenda (UA) shows at least four consecutive periods of the same rulemaking stage, rulemaking moved to long-term actions or effective/implementation date pushed back.	RESPONSIVE
	Responsive - Kill	Existing rulemaking was withdrawn or moved to inactive after the Fall 2016 UA.	
	Responsive-Modify/Change	Rule or rulemaking was amended, reversed or new industry-friendly rulemaking started after the Fall 2016 UA.	
	Non-responsive	No responsive actions or action counter to wish.	NON-RESPONSIVE

Responsive – Delay (D). Agencies can use a few tactics to slow walk the rulemaking process for industry-opposed regulations rather than eliminate or withdraw the action outright. In many cases, the regulators choose delay to avoid bad publicity, enhanced congressional oversight or because they are statutorily mandated to promulgate a rule. Rules newly designated as long-term actions by the Trump administration are considered D. Agencies also delay rulemakings by pushing back the compliance or effective date. Finally, agencies sometimes simply do nothing to advance a rule through the process. Rules that have not changed status for two years, or on four consecutive unified agendas, are labelled D.

Responsive – Kill (K). In some instances, agencies simply kill a rule or other policy at the behest of industry. This report classifies rules or guidance that have been withdrawn or designated as inactive as K. Rulemakings that are designated as inactive maintain their assigned a RIN but are very unlikely to emerge from internal agency review. Agency actions that involve rule or policy withdraw or designation as inactive are labelled K. Rules or policies that have been repealed under the Congressional Review Act (CRA) are counted as K.

Responsive – Modify (M). The most common responsive action is an agency modifying or changing an existing rule or undertaking a new rulemaking or policy to suit industry wishes. In this situation, the agency will make industry-requested changes to an existing rule or rulemaking. The agency may also respond to an industry wish by undertaking (or planning to undertake) an entirely new rulemaking that modifies or supersedes an existing regulation. M action also includes the issuance of a new interpretation or guidance that aligns with industry's request. This report classifies agency actions as M if the agency takes responsive action after March 2017, when NAM submitted its wish list to the DOC, or immediately prior to submission.

Non-responsive (NR). Rules that have not been delayed, killed or modified are labelled non-responsive.

Part II. Notable Responsive Actions

The Trump administration's industry-directed actions touch on almost every area of federal policy, including the environment, worker's rights and protections, financial oversight, communications and transportation.

CEQ NEPA Guidance

The National Environmental Policy Act (NEPA) is a foundational American environmental law. The law is based on the simple premise that the federal government should evaluate the environmental impact of federally licensed projects and solicit public input about those impacts before moving forward. The NEPA process is, at its heart, a democratic process that enables communities affected by infrastructure development to have a voice in project implementation. Without NEPA, communities would have no legal route through which they could make their voices heard. The Council on Environmental Quality (CEQ) is the White House office directly responsible for ensuring that federal agencies meet NEPA requirements.

In 2016, President Barack Obama’s CEQ issued a guidance document directing federal agencies to consider climate change impacts as part of NEPA reviews. Specifically, CEQ recommended that agencies attempt to reasonably quantify the effect a project would have on greenhouse gas emissions. NAM’s wish list identified the CEQ guidance as problematic, asking that CEQ replace the policy with “a policy that is far more reasonable and does not allow unnecessary project delays.”¹

Trump’s CEQ moved quickly to respond to NAM’s wishes, withdrawing the Obama guidance in April 2017.² By June of 2018, CEQ solicited comments in advance of a new “more efficient, timely, and effective” NEPA process.³ CEQ’s responsive action demonstrates a government-wide policy change to weaken public environmental protections, effectuated through a White House office.

EPA Clean Power Plan

Carbon pollution from power plants is a main driver of climate change. Existing power plants are the largest source of carbon emissions in the country and were barely regulated prior to 2015. In 2015, Obama announced the Clean Power Plan (CPP) establishing national standards to limit carbon emissions from power plants. NAM strongly opposed the plan, arguing the emissions reductions targets imposed incredible costs on industry. NAM’s wish list asks the EPA to withdraw the rule and replace it with “a rule consistent with the statute.” Trump’s EPA was responsive to NAM’s wishes, issuing a replacement plan in August 2018.

The EPA proposed the Affordable Clean Energy (ACE) rule to “replace the 2015 Clean Power Plan, which EPA has proposed to repeal because it exceeded EPA’s authority.”⁴ The ACE rule is, on its face, exactly what NAM wished for. The language of EPA’s ACE rule press release parrots the NAM talking points regarding the CPP exceeding statutory authority under the Clean Air Act. Overall, NAM’s list included 19 wishes for the EPA. Of those, 14 were rated as responsive resulting in an over 70 percent responsiveness rate for the agency.

EPA Carbon Neutrality of Biomass

The EPA’s policy on the carbon impact of burning wood, or biomass, has significant implications for climate change. Although burning wood releases carbon into the atmosphere, there is a policy debate over how the government should count those carbon emissions. On one hand, the forest products industry argues that burning wood is carbon neutral because trees are renewable and regrown forests will absorb emissions. Environmental groups disagree, pointing out carbon emissions outpace tree growth and emissions reduction should be the central policy goal in fighting climate

¹ Letter from National Association of Manufacturers to Department of Commerce, “Notice, Request for Information: Impact of Federal Regulations on Domestic Manufacturing (Docket No. 170302221-7221-01)”, 13 (March 31, 2017) [hereinafter NAM Comment].

² Withdrawal of 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, 82 Fed. Reg. 16576 (Apr. 5, 2017), <https://bit.ly/2nx9qHR>.

³ Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28591 (Jun. 20, 2018), <https://bit.ly/2KmcMZn>.

⁴ *Proposal: Affordable Clean Energy (ACE) Rule*, U.S. ENVIRONMENTAL PROTECTION AGENCY (viewed on Apr. 25, 2019), <https://bit.ly/2nUIdP>.

change. NAM asked the Trump administration to make an official policy statement that burning biomass is carbon neutral. The EPA was responsive through a letter and public statements of the then agency head Scott Pruitt.

In February 2018, former administrator Pruitt hand delivered a letter to Chris Sununu, Republican Governor of New Hampshire. The letter highlights EPA's "concerted effort to develop a range of options consistent with a carbon-neutral policy for biomass from forests and other lands and sectors. Unquestionably, by providing certainty for the treatment of biomass throughout the Agency's permitting decisions, the use of biomass energy will be bolstered, to the benefit of not only the forest products industry but the environment as well."⁵ The letter shows a high degree of responsiveness, including a direct reference to benefitting the forest products industry.

DOI Coal Leasing Moratorium

Valuable coal and mineral resources lie below millions of acres of public land in the American West. Over 40 percent of all coal mined in the U.S. comes from federal lands, contributing to about ten percent of the country's total greenhouse gas emissions.⁶ The use or conservation of those resources is inextricably intertwined with climate change policy considerations. In 2015, the Obama administration issued a halt on new coal leases on federal lands as part of an evaluation of the climate change impacts of mining. In its wish list, NAM demanded that the Trump administration end the coal leasing moratorium immediately. Former U.S. Department of the Interior (DOI) Secretary Ryan Zinke acted expeditiously, issuing an order reviving the federal coal leasing program in March 2017.⁷

Zinke's action were transparently responsive to NAM's wishes; he withdrew the guidance as directed in the NAM comment. Immediately following the order, he described the action as "a signal the war on coal is over and punitive regulation that was directed specifically toward coal."⁸ Overall, DOI has been responsive to 86 percent of NAM's requests.

EPA Social Cost of Carbon and Methane

Regulators are currently obligated to quantify the costs and benefits that would result from a particular regulatory action. That analysis can be dispositive in crucial decisions related to the implementation of key public protections, including environmental regulations. Cost-benefit analysis is an inexact tool, at best, for anticipating the real-world outcomes of an agency action. The Obama administration put a dollar value on the cost of carbon and methane pollution through an interagency working group. In 2010, the U.S. Interagency Working Group on Social Cost of Carbon issued guidance

⁵ Letter from Scott Pruitt, Administrator, U.S. Environmental Protection Agency, to Chris Sununu, Governor, State of New Hampshire, "Policy Update on EPA Programmatic Treatment of Biomass and the Forest Products Industry" (February 13, 2018), <https://bit.ly/2GG3wvX>.

⁶ Eric Lipton and Barry Meier, *Under Trump, coal mining gets new life on federally-owned land*, THE SEATTLE TIMES (Aug. 6, 2017), <https://bit.ly/2L4zqqb>.

⁷ Secretary of the Interior Order No. 3348, "Concerning the Federal Coal Moratorium" (Mar. 29, 2017), <https://on.doi.gov/2oijj9a>.

⁸ Karl Puckett, *Interior secretary Zinke says 'war on coal' is over*, GREAT FALLS TRIBUNE (Mar. 29, 2017), <https://bit.ly/2GxOaIS>.

directing agencies to use the cost estimate as part of their regulatory analysis. The guidance was updated several times, most recently in August 2016. NAM's wish list complained that the working group's methods were not transparent, procedurally defective and resulted in agencies using cost estimates "to justify the costs of many of the most costly federal regulations."⁹ NAM asked that the guidance be withdrawn and replaced. The Trump White House was extremely responsive to NAM's wish, issuing an executive order (EO) on energy policy in March 2017.

E.O. 13783, Promoting Energy Independence and Economic Growth, directly revoked the working group's original guidance and all updates.¹⁰ In addition, the working group itself was disbanded.

NLRB Joint Employer Standard

Workers are better protected when the government makes clear that when a company violates the law, those responsible will be held accountable. Modern corporate structures are built to limit legal risk by separating smaller subsidiaries from larger parent companies. In 2015, the NLRB ruled that companies who oversee franchisees or contractors who break labor laws should share blame as joint employers. Workers who had been treated unfairly would have the opportunity to make their case against those actually making the harmful decisions. NAM asked the Trump administration to change that standard and allow parent companies to avoid accountability by claiming that labor violations committed by contractors had nothing to do with them. Trump's NLRB acted responsively.

The NLRB is a unique regulatory agency in that it has the authority to issue adjudicatory decisions and promulgate rulemakings. The NLRB has used both authorities in its responsive actions to grant NAM's joint employer wish. The board attempted to use adjudicatory powers to overrule the 2015 standard, known as *Browning Ferris*,¹¹ but was stymied by the conflicts-of-interest recusal of board member William Emanuel. Emanuel's former employer, a management-side law firm, had represented a party in the decision¹² to overturn *Browning Ferris*.¹³ Undeterred, the board used its rulemaking authority to issue an NPRM for a new joint employer standard in September 2018.¹⁴

Fair Play and Safe Workplaces E.O. "Contractor Blacklisting"

The federal government's choice of contractors is hugely consequential in setting the precedent for legal and ethical standards in the business community. Ideally, federal contractors would fully comply with all workplace laws, including health and safety standards, fair wage and civil rights laws. Rewarding contractors who meet these standards has the downstream effect of incentivizing

⁹ NAM Comment at 42.

¹⁰ E.O. 13783 Promoting Energy Independence and Economic Growth, 82 Fed. Reg. 16093 (Mar. 31, 2017), <https://bit.ly/2DTQUlh>.

¹¹ *Browning-Ferris Industries*, 362 NLRB No. 186 (2015).

¹² *Hy-Brand Industrial Contractors, Ltd. and Brandt Construction Co.*, 365 NLRB No. 156 (2017).

¹³ Ian MacDougall, *NLRB Member Is Under Investigation for a Conflict of Interest*, PROPUBLICA (Feb. 1, 2018), <https://bit.ly/2vnr1E7>.

¹⁴ The Standard for Determining Joint-Employer Status, 83 Fed. Reg. 46681 (Sept. 14, 2018), <https://bit.ly/2NWWQKk>.

responsible behavior. In 2014, the Obama administration issued the Fair Play and Safe Workplaces Executive Order (E.O. 13673), followed by guidance from the U.S. Department of Labor (DOL) that requires companies to disclose past labor violations when bidding for federal contracts.¹⁵ NAM deemed the rule “contractor blacklisting” and asked that the DOL guidance be withdrawn.¹⁶ The Trump administration, in concert with the Republican-controlled Congress, acted responsively through the Congressional Review Act (CRA).

The CRA allows Congress to fast-track a joint resolution to disapprove agency action that takes effect upon signature by the president. The CRA was used only once prior to the Trump administration; since January 2017 it has been used seventeen times to repeal regulations or agency guidance.¹⁷ One pernicious feature of the CRA is that a successful CRA resolution precludes an agency from issuing a rule that is substantially the same as the repealed rule, unless reauthorized by statute.¹⁸ Trump signed the resolution repealing the Fair Play and Safe Workplaces E.O. in March 2017.¹⁹

Net Neutrality

The FCC is an independent agency tasked with overseeing interstate communications, its mission is to “make available, so far as possible, to all the people of the United States, without discrimination ... wire and radio communication service with adequate facilities at reasonable charges.”²⁰ As an independent agency, the FCC is supposed to be insulated from political pressure. However, Trump’s FCC has been responsive to 100 percent of NAM’s wishes. The FCC has taken regulatory actions that reflect industry priorities rather than those of the public.

NAM requested that the FCC use its authority to override state and local laws that prevent the deployment of 5G antennae, repeal the broadband privacy rule, deregulate the internet, and remove FCC approval requirements for removing telecommunications infrastructure.

The FCC has acted to satisfy each industry request, most notably during the net neutrality debate. In 2015, the Obama-appointed FCC promulgated the net neutrality rule that regulated the internet as a telecommunications network. The telecom industry and NAM objected and argued for a lighter regulatory touch. NAM’s wish list frames those objections in terms of overregulation, “the internet should remain open from unnecessary regulation that will restrict innovation for manufacturers and

¹⁵ Guidance for Executive Order 13673, “Fair Pay and Safe Workplaces.” 81 Fed. Reg. 58653 (Aug. 25, 2016), <https://bit.ly/2XPKcSD>.

¹⁶ NAM Comment at 41.

¹⁷ *Congressional Review Act Resolutions in the 115th Congress*, THE COALITION FOR SENSIBLE SAFEGUARDS (viewed on Apr. 26, 2019), <https://sensiblesafeguards.org/cra-115th/>.

¹⁸ 5 U.S.C. § 801(b)(2).

¹⁹ Ben Penn, *Trump Kills Obama’s ‘Blacklisting’ Executive Order*, BLOOMBERG BNA (Mar. 28, 2017), <https://bit.ly/2PzZCrA>.

²⁰ 47 U.S.C. § 151.

the public.”²¹ The commission passed the deregulatory “Restoring Internet Freedom” rule in February 2018.²²

NAM also asked for the FCC to take action to improve opportunities for business growth by intervening against state and local restrictions on the siting of 5G network antennae.²³ Since NAM sent its wish list, the FCC has undertaken at least three actions aimed at “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.” Although these actions do not amount to a broad preemption statement related to all state and local 5G antennae siting issues, they represent incremental steps towards loosening review requirements for cell placement. For example, the FCC issued a July 2018 order exempting 5G antenna placement from review under the NEPA.²⁴ Under the same banner, the FCC issued a July 2018 rule changing the discontinuance of service process, which involves the steps a provider must take to replace existing systems. The new FCC rule discards customer notification requirements for when providers replace landline phones. The remaining rule on NAM’s list, relating to broadband privacy, was repealed by Congress using the CRA.²⁵

SEC Claw Back Proposed Rule

Financial industry executives have little incentive to responsibly manage risk if they can be sure to rake in a huge bonus, regardless of the consequences of their decisions. Less than a year before Lehman Brothers collapsed, the bank paid out almost \$700 million to top executives.²⁶ In the wake of the 2008 financial crisis, Congress passed legislation that directed the U.S. Securities and Exchange Commission (SEC) to regulate executive compensation in the financial sector. Those statutory directives included a mandate that the SEC issue a rule pertaining to erroneously awarded incentive-based compensation, or bonuses, received by executives. In 2015, the SEC proposed a rule that requires companies to maintain a “claw back” policy for all executive officers. In essence, executives would be required to return bonuses that were based on erroneous accounting statements, regardless of the executive’s degree of fault in the error. NAM opposed the proposed rule in its wish list, characterizing the proposal as overly broad.²⁷ The Trump SEC was responsive to NAM’s wish; it has so far delayed the 2015 proposal from moving forward.

²¹ NAM Comment at 34.

²² Restoring Internet Freedom, 83 Fed. Reg. 7852 (Feb. 22, 2018), <https://bit.ly/2okLTYT>.

²³ NAM Comment at 33.

²⁴ Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 83 Fed. Reg. 19440 (May 5, 2018), <https://bit.ly/2Vl4173>.

²⁵ Brian Fung, *Trump has signed repeal of the FCC privacy rules. Here’s what happens next*, THE WASHINGTON POST (Apr. 4, 2017), <https://wapo.st/2IKfUxg>.

²⁶ Lehman Compensation Chart, L.A. TIMES (viewed on April 25, 2019), <https://bit.ly/2volzQR>.

²⁷ NAM Comment at 36-7.

In the Spring 2018 Unified Agenda, the claw back proposal is listed as a long-term action. Ominously, the agenda simply describes the next steps for the rule as “Next Action Undetermined.”²⁸

DOT Train Crew Staffing

In late 2013, two serious rail disasters prompted the federal government to assess laws related to minimum train crew safety requirements. The most notable incident occurred when an oil train derailed and exploded in the town of Lac-Mégantic, Quebec, Canada, killing 47 people. The train was operated by a single crew member. Although a later assessment by the Transport Board of Canada was inconclusive as to whether a larger crew would have prevented the accident, the Federal Railroad Administration (FRA) determined that “a train crew with a minimum of two-persons would have had more options available to secure the train safely, thereby potentially posing less of a risk of a runaway train.”²⁹ The FRA also determined that the increasing use of trains to transport crude oil, in increasingly larger amounts, necessitated minimum crew requirements. NAM’s wish list labelled the proposal a “command-and-control approach” and demanded the rule be withdrawn.³⁰ Trump’s FRA complied, delaying the action from advancing past the proposal stage.

Like the SEC’s action on the claw back rule, the FRA’s actions elucidate the fine line between the outright withdraw of a rulemaking and an almost certain indefinite delay. Rather than an outright withdraw of the proposal, the agency essentially mothballs the action. The delay establishes a pretense that the proposal may be revisited, partially deflecting objections from Congress, advocacy groups or the press.

Part IV. Additional Findings

Deeper analysis of NAM’s wish list reveals that responsive agency actions have been focused on major, non-technical rules identified in the wish list. In addition, those actions were aimed at reducing costs for industry, rather than the public. Results indicating more agency responsiveness related to major rules may be the product of the report methodology, discussed in Part I above, that is less likely to capture alterations of internal non-major agency actions.

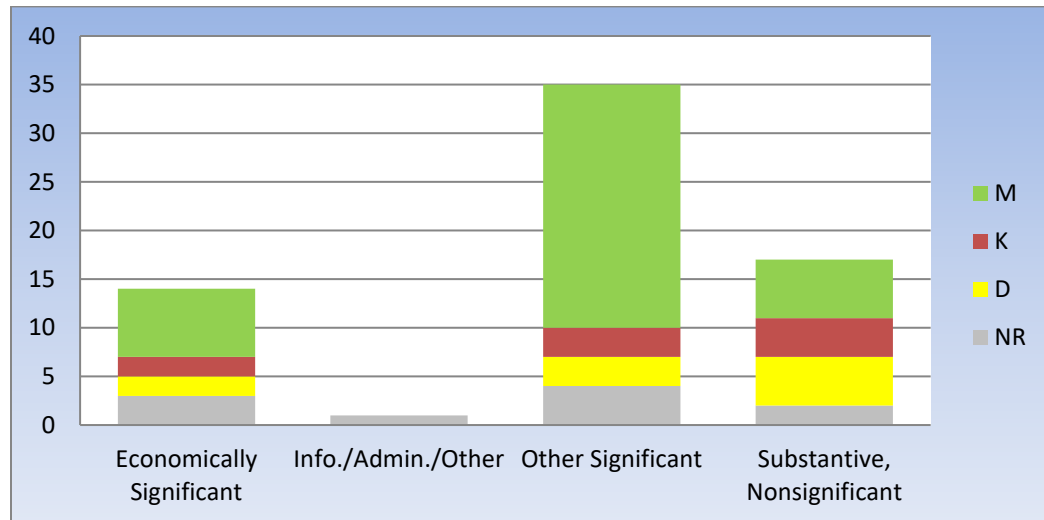
All the responsive RIN-associated rules were categorized by the U.S. Office of Information and Regulatory Affairs (OIRA), the centralized federal regulatory review office, as substantive or significant. OIRA is required to review rulemaking actions that it deems significant or substantive. Rules are categorized as significant or substantive if the economic impact of the rule exceeds \$100 million, the rule would likely interfere with the actions of another agency, have material implications for the federal budget or pose a novel legal question. The results indicate that the bulk of responsive regulatory actions by Trump officials were on rules that OIRA deemed to be important in terms of their economic or legal significance, rather than just minor or technical in nature.

²⁸ *Listing Standards for Recovery of Erroneously Awarded Compensation*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (viewed on April 25, 2019), <https://bit.ly/2UEPYVa>.

²⁹ Train Crew Staffing, 81 Fed. Reg. 13917 (March 15, 2016), <https://bit.ly/2Dzhrll>.

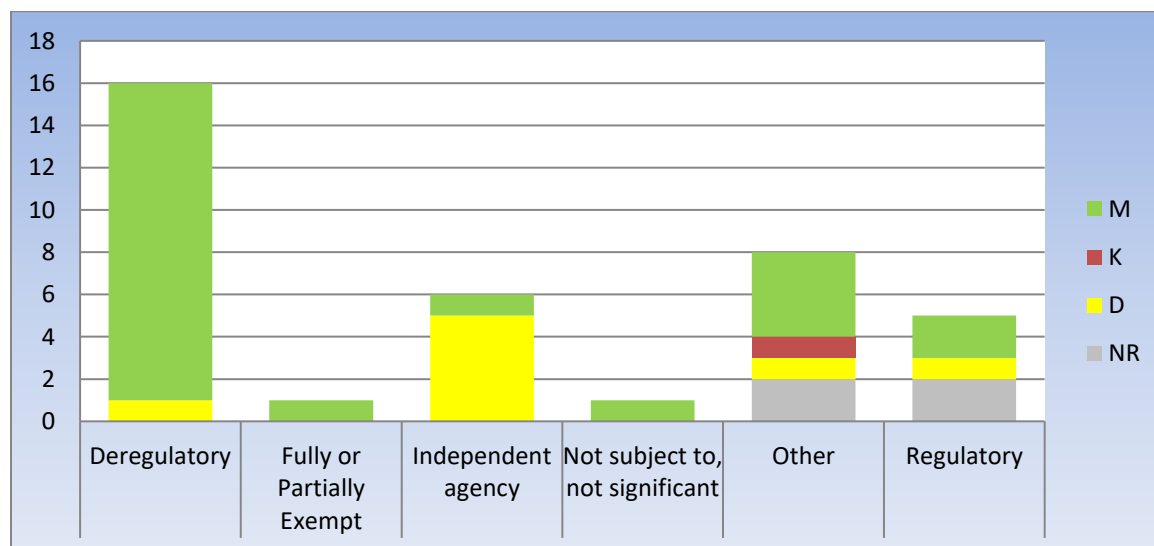
³⁰ NAM Comment at 24.

Figure 6: Responsiveness Rating by Category for All RIN Associated Rules



At the beginning of his administration, Trump issued Executive Order 13771. The order was broadly aimed at reducing federal regulatory activity. Later OIRA guidance implementing the order required agencies to designate rulemakings as deregulatory if the total cost of the action were less than zero. Most of the responsive RIN-associated rules were categorized as deregulatory actions by the agencies. The prevalence of the deregulatory designation for rules on NAM’s wish list indicates that the actions taken by the Trump administration were intended to result in cost savings for industry.

Figure 7: EO13771 Designation by Responsiveness Rating for All RIN Associated Rules



Agency responsiveness to NAM’s wish list is not a perfect metric. Any reasonable observer knows that correlation does not necessarily equal causation. However, the overwhelming weight of the evidence presented in this report leads to the conclusion that federal agencies under Trump are acting in accordance with the wishes an influential trade association that represents multiple major industries. We also know that members of that same trade association, as well as other former

employees of regulated industries, now work in senior positions overseeing regulation of their former colleagues. Other major multi-industry trade associations have employed the same tactics – with likely similar success.

It's safe to say that the high degree of responsiveness between NAM's wish list and agency regulatory actions is not a coincidence. That connection raises concerns for the preservation of important public protections for consumers, workers and the environment. Ultimately, federal regulators have a responsibility to be responsive to the American public, not to NAM and other corporate special interests.

Appendix

Research Process

- (1) Review the NAM Wish List and Identify Wishes.** Public Citizen reviewed the NAM comment to DOC and identified relevant requests (i.e. wishes) for regulatory action. Reviewers consolidated some requests for the sake of simplicity. For example, the NAM list includes a section labelled Air Permitting and Regulatory Reform. The underlying text broadly mentions several air permitting policies that overlap with requests in other parts of the comment, this report classifies the section as a single ask – to make industry-friendly changes to EPA air permitting standards. In other cases, discernable requests within a section were counted as individual wishes. Under U.S. Customs and Immigration Service (USCIS): Immigration, Public Citizen separated out three distinct requests.
- (2) Match Wishes with Relevant Regulation Identification Numbers (RIN).** RINs are numbers assigned to regulations by the U.S. Office of Management and Budget’s (OMB) electronic docketing system. Each action listed in the Unified Agenda is labelled with a RIN. The Unified Agenda (UA) is semi-annual report to OIRA that describes an agency’s regulatory plans. Public Citizen paired NAM wishes with all associated RINs. Researchers included relevant RINs that existed prior to the Trump administration if the specific rule was referenced in NAM’s wish. The report also includes new RINs generated for recent rulemakings, which may not yet be published in the UA. Of the 132 NAM wishes, 71 could be associated with at least one RIN. In other words, slightly more than half of the rules identified by NAM were significant enough to be included in the UA.
- (3) Match Non-RIN Wishes with Guidance Document or Other Agency Action.** For regulatory actions not associated with a RIN, Public Citizen located relevant background materials. In most cases, the research identified press releases, policy statements, or other guidance related to NAM’s wish.
- (4) Apply Historical Unified Agenda Data to Associated RINs.** For rules associated with a RIN, Public Citizen used historical UA data from reginfo.gov to generate reports on the past status and designations of RINs associated with NAM wishes.
- (5) Evaluate Agency Actions and Assign a Responsiveness Level.** All 132 NAM asks were evaluated for responsiveness based on the responsiveness criteria outlined in Part II above. For all rules, Public Citizen used press reports, publicly viewable agency guidance, the *Federal Register* and regulations.gov to identify agency actions and determine responsiveness. For rules with an associated RIN, Public Citizen also used UA data to examine whether agencies had or planned to take responsive action following the publication of NAM’s wish list.

The below table shows the responsiveness rating, RIN assignment, UA analysis and note for each rule included in NAM's wish list. Explanations of the UA abbreviations are immediately below.

Unified Agenda Rule Stage	Abbreviation	Explanation
Prerule Stage	PRE	Action to solicit public comment on whether, or how best, to initiate a rulemaking. Such actions occur prior to the proposed rule stage and include advance notices of proposed rulemaking (ANPRM).
Proposed Rule Stage	PROP	Rulemaking stage in which an agency proposes to add to or change its existing regulations and solicits public comment on this proposal, typically by issuing a notice of proposed rulemaking (NPRM).
Final Rule Stage	FIN	Agency responds to public comment on the proposed rule and makes appropriate revisions before publishing the final rule in the <i>Federal Register</i> to become effective. In some cases the rule may not become effective after being designated FIN.
Long Term Actions	LTA	Agency expects to take action on rulemaking in more than twelve months, as reported at the time of the UA.
Completed/Inactive Actions	COM	Action has become effective, moved to the inactive list or has been withdrawn.

Title	Agency	RIN	Spr 2016	Fall 2016	Spr 2017	Fall 2017	Spr 2018	Fall 2018	Action/Notes
Swap Dealer Registration De minimis Exception; Amendments	CFTC	3038-AE68					PROP	FIN	NAM asks that threshold remain at \$8 billion. The U.S. Commodity Futures Trading Commission issues NPRM in June 2018 proposing to keep threshold at \$8 billion. The final rule was promulgated in November 2018 .
Information Disclosure under 6(b) of the CPSA	CPSC	3041-AD36							NAM asks for rule withdrawal. 6(b) rulemaking moved to inactive list in Spring 2017
Recreational Off-Road Vehicles	CPSC	3041-AC78	PROP	FIN	LTA	LTA	LTA	LTA	NAM asks for rule withdrawal. Rule moved to LTA in Spring 2017.
Mandatory Standard for Table Saws	CPSC	3041-AC31	PROP	PROP	PROP	LTA	LTA	FIN	NAM asks for rule withdrawal. Rule moved to LTA in June 2018 semiannual regulatory agenda .
Voluntary Remedial Actions and Guidelines for Voluntary Recall Notices	CPSC	3041-AC73		PRE	COM				NAM asks for rule withdrawal. Rule moved to inactive list in Spring 2017 .
Standard for the Flammability of Mattresses and Mattress Pads	CPSC	3041-AD47 ; 3041-AC27	PRE	PRE	COM				NAM asks for rule rescission. RFI issued 2/1/17 to evaluate the rule . Associated rule (RIN 3041-AC27) designated inactive Spring 2017.
NEPA Policies and Guidance	CEQ	0331-AA03					PRE	PROP	NAM asks for new policy. CEQ issues ANPRM on 6/20/18 .
White House Memo on Incorporating Ecosystem Services into Federal Decision making	CEQ								No significant responsive federal regulatory action
Expansion of the Automated Commercial Environment (ACE) and International Trade Data System (ITDS)	CBP								No significant responsive federal regulatory action

Importation of Wood Packaging Material From Canada	USDA	0579-AD28	FIN	FIN	COM	COM	COM		NAM asks for rule withdrawal. Rule moved to inactive Spring 2017.
Modernization of Swine Slaughter Inspection	USDA	0583-AD62		PROP	PROP	PROP	PROP	FIN	NAM asks agency to move forward with rulemaking. Rule advances to FIN in Fall 2018.
GIPSA Clarification of Scope	USDA	0580-AB25	FIN	FIN	COM	COM			NAM asks for rule rescission. Rule withdrawn 10/18/17.
NIST Cybersecurity Standards	DOC								No significant responsive federal regulatory action
NOAA Fisheries: Acoustic Criteria for Level A Take under marine Mammal Protection Act	DOC								NAM asks for new guidance. NOAA issues guidance update April 2018 .
Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products	DOE	1904-AD38	LTA	LTA	LTA	LTA	PROP	PROP	NAM asks for changes to EPCA procedures. DOE issues RFI on process rule changes in December 2017 . Proposed rule issued February 2019 .
Reduce Health Insurance Compliance Burdens	HHS								No significant responsive federal regulatory action
340(B) Civil Monetary Penalties for Manufacturers and Ceiling Price Regulations	HHS: HRSA	0906-AB18 ; 0906-AB19; 0906-AB11; 0906-AA89;					PROP	COM	NAM asks that the rule be withdrawn. HHS proposes delayed effective date until 2019 .
Deeming Tobacco to be Subject to the Federal Food, Drug, and Cosmetic Act	FDA	0910-AG38	FIN	COM					NAM asks for reevaluation and delay in rule implementation. Guidance issued in 2017 extending compliance date with deeming rule. A

									December 2018 guidance further extended compliance deadlines.
Food Safety Modernization Act regulations	FDA								NAM encourages agency engagement with industry to avoid regulatory burdens. FDA issued guidance encouraging engagement with industry and reducing enforcement in January 2018 .
Preemption of California’s Proposition 65	FDA								No significant responsive federal regulatory action
Product Testing Standards	FDA								No significant responsive federal regulatory action
Regulations on the Definition of Slack-Fill	FDA								No significant responsive federal regulatory action
Tobacco Product Standard for N-Nitrosornicotine Level in Finished Smokeless Tobacco	FDA								NAM labels standard “unachievable” and asks for delay. Obama-era NPRM comment period extended in March 2017 , no further action or mention in UA or <i>Federal Register</i> .
Ballast Water Management-Removal of Annual Reporting Requirement	DHS: USCG	1625-AC45					PROP		NAM asked for removal of ballast water reporting requirements. Spring 2018 UA lists planned NPRM regarding removal of annual reporting requirement. Final rule issued September 2018 .
H-4 Spouse Employment Authorizations	DHS: USCIS	1615-AC15				PROP	PROP	PROP	Non-responsive. USCIS action seems to run counter to NAM ask.
F1 Program/STEM-OPT	DHS: USCIS	1653-AA78							NAM asks for more flexibility for potential employees awaiting an H-1B visa. Fall 2018 UA includes new RM regarding maximum stay under the F-1 program, including “options for extensions.”
H-1B Administrative Improvements	DHS:USCIS	1615-AB71			LTA	PROP	PROP	PROP	NAM asked for H-1B program improvements. DHS rulemaking revives 2011 NPRM to effectively

									manage H-1B lottery. Final rule issued January 2019 .
Offshore Oil and Gas Exploration and Production	DOI								NAM asks for more offshore areas to be opened for oil exploration. DOI announced draft plan in January 2018 to open up Atlantic and Arctic for offshore drilling.
Moratorium on Leasing of Federal Coal	DOI								NAM asks that the coal leasing moratorium on federal land be lifted. DOI lifted coal leasing moratorium in March 2017.
Venting and Flaring (Methane Rule)	DOI: BLM	1004-AE53			PROP	PROP	FIN	COM	NAM asks for the repeal of the methane rule. DOI reviewed and revised the final rule in September 2018 “due to its regulatory burden on American energy production”
Endangered Species Act	DOI: FWS	1018-BC87				PROP	PROP	FIN	NAM asks for ESA relief. DOI plans RM to reassess interagency cooperation and ESA implementation FWS/NOAA announce revisions in July 2018 . Final Rule under OIRA review .
Habitat Conservation Planning Handbook	DOI: FWS	0648-XE42							No significant responsive federal regulatory action
Consolidated Oil & Gas and Federal & Indian Coal Valuation	DOI: ONRR	1012-AA21 1012-AA13			PROP	LTA	PROP	LTA	NAM asks for rule reconsideration. April 2017 ANPRM asks for comments on revision of Obama rule.
Metal/Nonmetal Examination Rule	DOL: MSHA	1219-AB87	PROP	FIN	FIN	FIN	COM		NAM asks for rescission or modification. DOL issues final rule April 2018 (after delay) with amendments to “provide mine operators additional flexibility in managing their safety and health programs.”
Defining and Delimiting the Exemptions for Executive, Administrative, Professional,	DOL: WHD	1235-AA20 1235-AA11			PRE	PROP	PROP	PROP	NAM asks for rescission and issuance of new rule. DOL issues RFI in 2017 and expects new NPRM in 2019.

Outside Sales and Computer Employees									
Independent Contractors	DOL: WHD								NAM asked for withdraw of IC guidance. DOL withdrew Obama guidance in April 2017 .
FMLA Regulations	DOL: WHD								No significant responsive federal regulatory action
Davis-Bacon Prevailing Wage Rates	DOL: WHD								No significant responsive federal regulatory action
Volks Rule	DOL: OSHA	1218-AC84							NAM asks that the Volks rule be rescinded. CRA revocation May 2017 .
Combustible Dust	DOL: OSHA	1218-AC41	PRE	PRE	COM				NAM asks that DOL abandon the rulemaking. Rule withdrawn March 2017 .
Hazard Communications Standard	DOL: OSHA	1218-AC93	LTA	PROP	LTA	LTA	PROP	PROP	No significant responsive federal regulatory action
Improve Tracking Workplace Injuries and Illnesses	DOL: OSHA	1218-AD17 1218-AC49			PROP	PROP	PROP	FIN	NAM asks for reconsideration of Obama rule. Final rule to amend issued January 2019 .
Nationally Recognized Testing Laboratories (NRTL) Program	DOL: OSHA								No significant responsive federal regulatory action
Occupational Exposure to Beryllium	DOL: OSHA	1218-AB76	PROP	FIN	PROP	FIN	PROP	COM	NAM asks for rescission or amendment. Rule delayed and finalized with "clarifying amendments" July 2018 .
Occupational Exposure to Crystalline Silica	DOL: OSHA	1218-AB70	COM						No responsive action. Rule enforcement going forward, enforcement guidance issued June 2018 .
Outdated Standard for Containerized and	DOL: OSHA								No significant responsive federal regulatory action

Flammable Combustible Liquids									
Lock-Out-Tag-Out (LOTO) Standard	DOL: OSHA	1218-AD00	PRE	PRE	PRE	PRE	PRE	PRE	NAM asks for rescission of LOTO update proposal. Rule has remained stuck in prerule stage over 5 UAs. RFI submitted to OIRA in October 2018.
Procedures for Considering Environmental Impacts (NEPA Review)	DOT	2125-AF60	LTA	LTA	LTA	PROP	FIN	FIN	NAM asks for the rescission of proposed changes to Order 5610.1C . DOT has not formally implemented any changes to the order. Administration infrastructure plan includes NEPA reform. See also CEQ NEPA procedures ANPRM.
Railroad Rehabilitation and Improvement Financing (RRIF)	DOT								No significant responsive federal regulatory action
Port Metrics	DOT: BTS								No significant responsive federal regulatory action
Aircraft Systems Certification Reform – SAE ARP 474	DOT: FAA								No significant responsive federal regulatory action. FAA Associate Administrator did indicate before Congress a plan to reform certification process.
Future Freight Increases: Comprehensive Truck Size and Weight Limits Study Report	DOT: FHWA								No significant responsive federal regulatory action
Workplace Safety	DOT: FHWA	2125-AF51							No significant responsive federal regulatory action. NAM asked FHWA to move forward with the rule; agency terminated the rulemaking in April 2017.
Electronic Logging Devices – Livestock Exemption	DOT: FMCSA	2126-AB20	COM						NAM asks for rule modifications and exemptions, especially for livestock. Two exemptions have been granted for livestock transportation: 2017 , 2018 . FMCSA did deny 10 applications for ELD exemptions in December 2018 .
Hours of Service for Drivers	DOT: FMCSA	2126-AC19						PRE	NAM asks for review. FMCSA issued ANPRM to reevaluate the HOS rule in August 2018 . Industry

									groups submitted a request for a permanent exemption in February 2019 .
Electronically Controlled Pneumatic Brakes	DOT: PHMSA/FRA	2137-AF35					FIN	COM	NAM asks for rescission of 2015 final rule. PHMSA announces rule not economically justified and intent to rescind in December 2017. DOT issued a final rule to remove brake requirements for high hazard trains in September 2018 .
Train Crew Staffing	DOT: FRA	2130-AC48	FIN	FIN	FIN	FIN	LTA	LTA	NAM asks for rule withdrawal. Rule moved to LTA in UA, "next action undetermined"
Minimum Training Standards	DOT: FRA	2130-AC70 2130-AC68 2130-AC06				PROP	FIN	COM	NAM asks for delay in implementation of 2014 rule . FRA issued rule delaying implementation in May 2017 and completed in 2018 .
Wheel Impact Load Detectors Safety Advisory	DOT: FRA								No significant responsive federal regulatory action
Positive Train Control Hours of Service Informal Industry Guidance	DOT: FRA								No significant responsive federal regulatory action
PTC Cab Signal System Requirements	DOT: FRA								No significant responsive federal regulatory action
Tire Safety Standards	DOT: NHTSA								No significant responsive federal regulatory action
Federal Automated Vehicle Policy	DOT: NHTSA	2126-AC17					PRE	PRE	NAM asks for continued cooperation and continuation of voluntary standards. NHTSA issues January 2018 comment request , "Removing Regulatory Barriers for Vehicles With Automated Driving Systems."

Transportation of Lithium Batteries	DOT: PHMSA	2137-AF20	FIN	FIN	FIN	FIN	FIN	PROP	OIRA completes review of PHMSA Lithium Batteries on Aircraft Int'l update IFR in February 2019 .
Dangerous Goods Regulations	DOT: PHMSA	2137-AF18	PROP	PROP	COM				NAM asks for harmonization with international standards. Final rule completed March 2017 .
Hazardous Materials Regulations for Packaged Pharmaceuticals	DOT: PHMSA								No significant responsive federal regulatory action
Air Permitting and Regulatory Reform	EPA	2060-AT55			LTA	FIN	FIN	FIN	NAM asks for changes air permitting policy, including new source review (NSR) and the once in, always in guidance. EPA August 2018 ACE proposal proposes major air permitting changes, including NSR permitting changes. Separately, the EPA repealed the once in, always in guidance in January 2018 .
Best Available Technology Economically Achievable under Clean Water Act	EPA	2040-AF77 2040-AF76			LTA	LTA	PROP	PROP	NAM asks for changes to BAT limitations under CWA. EPA issues final RM to delay or halt implementation for industry segments in September 2017 . New rule planned for 2019.
Centralized Waste Treatment Study	EPA								NAM asks for EPA to work with states and the oil & gas industry in CWT study. EPA announced new "holistic" wastewater study in 2018 , highlighting engagement with states and industry stakeholders.
CERCLA Implementation	EPA								NAM asks for faster remediation approvals at a lower cost. Former Administrator Pruitt issues May 2017 memo delegating approval authority to the Administrator's office.
Cost of Control Manual	EPA								NAM asks EPA to gather current information from vendors on VOC control costs. EPA issues Feb 2018 revision ; "To develop the costs used in each of the chapters of this Manual, we attempted to survey the largest possible group of vendors and collected

									information from industry literature and other technical reports to determine an industry average price for each cost component”
CERCLA 108(b) Proposed Rule for Hard Rock Mining Sector	EPA	2050-AG61	PROP	PROP	PROP	FIN	COM		NAM asks for no additional financial requirements for mining sector under proposed rule. EPA announces no further action on rule in February 2018 .
Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel, Tier 4	EPA	2060-AR91							No significant responsive federal regulatory action
Carbon Neutrality of Biomass	EPA								NAM asks for clarity on the carbon neutrality of biomass. Former Administrator Pruitt met with NH Gov. Sununu in February 2018 , “For years, the federal government rendered most U.S. forestry producers ineligible for federal procurement projects and created confusion around biomass carbon neutrality ... Understanding the importance of the forest products industry to the State of New Hampshire, EPA is focused on clarifying regulations that were encumbering the industry.”
Clean Power Plan	EPA	2060-AT55			LTA	FIN	FIN	FIN	NAM asks for withdrawal and replacement. EPA August 2018 ACE proposal to replace CPP.
Boiler MACT	EPA	2060-AS09	COM						NAM asks for retrospective review of the final rule. No significant responsive federal regulatory action
Enforcement and Remediation Settlements	EPA								No significant responsive federal regulatory action
Formaldehyde Emissions Standards for Composite Wood Products	EPA	2070-AJ44 2070-AK47	FIN	FIN	FIN	COM			NAM asks for inclusion of industry data in final rule. EPA issued notice in May 2018 of public meeting in advance of technical amendments to rule. NPRM on adding industry feedback published November 2018 .

Integrated Risk Information System (IRIS)	EPA								No significant responsive federal regulatory action
Lead Repair, Renovation and Painting Rule	EPA	2070-AJ56	PROP	PROP	LTA	LTA	LTA	LTA	No significant responsive federal regulatory action
National Ambient Air Quality Standards (NAAQS)	EPA								NAM asks for new permitting process. Former Administrator Pruitt issues memo in May 2018 laying out new principles for streamlined process.
NAAQS for Ozone	EPA	2060-AR34							NAM asks for a change in NAAQS for ozone. EPA asks for public information regarding review of ozone standard in June 2018 .
National Emissions Standards for Hazardous Air Pollutants (NESHAP): Visible Emissions Monitoring	EPA	2060-AT25 2060-AT50		PROP	PROP	PROP	PROP	PROP	NAM indicates general concerns with NESHAP standards but singles out burdensome visible emissions monitoring. EPA initiates related rulemakings: <ul style="list-style-type: none"> • 8/20/18 PR – NESHAP for Clay Ceramics proposes to eliminate weekly monitoring requirements. • 4/10/18 PR - NESHAP for Petroleum Refining Sector Amendments to clarify visible monitoring in response to API/AFPM comments.
National Pollutant Discharge Elimination System (NPDES) Permit Streamlining	EPA	2040-AF25	PROP	FIN	LTA	LTA	FIN	FIN	NAM asks for streamlining of NPDES permit process. EPA Fall 2018 UA lists update to “address portions of the proposed rule that were intended to update the NPDES regulations to be more clear and effective, promote submission of complete permit applications, and allow more timely development of NPDES permits.”
New Source Performance Standards (NSPS) for GHG Emissions from New, Modified, and	EPA	2060-AT56				LTA	PROP	PROP	NAM asks for reconsideration of standards. Fall 2018 UA lists rule review pursuant to April 2018 announcement of intent to review Standards of Performance for Greenhouse Gas Emissions from

Reconstructed Stationary Sources: Electric Utility Generating Units									New, Modified, and Reconstructed Stationary Sources: Electric Generating Units.
Nonpoint Source Pollution	EPA								NAM asks for more data collection and that EPA not develop a national standard or directly regulate nonpoint sources. EPA has not taken significant action in either direction.
Pretreatment Standards: Publically Owned Treatment Works (POTW)	EPA								No significant responsive federal regulatory action
Public Disclosure Requirements in Regulations, Permitting & Reporting to Protect Confidential Business Information	EPA								No significant responsive federal regulatory action
Regional Haze (RH)	EPA								NAM asks for a reevaluation of specific RH federal implementation plans and to defer to states to implement RH programs. April 2018 Presidential Memo to EPA orders reevaluation of all federal RH implementation plans.
Research and Development Regulatory Barriers	EPA								No significant responsive federal regulatory action
Resource Conservation and Recovery Act (RCRA): Pharmaceuticals	EPA	2050-AG39	FIN	LTA	LTA	FIN	FIN	FIN	NAM asks for revision of 2015 proposed rule. EPA moves to long-terms actions then submits final rule to OIRA with changes responsive to industry concerns.
Risk Management Plan (RMP) Amendments Rule – Chemical Disaster Rule	EPA	2050-AG95				PROP	PROP	FIN	NAM asks for withdraw of the RMP rule. EPA issues May 2018 PR rescinding part of the rule and modifying others.
Selenium Criteria	EPA	2040-AF79				LTA	PROP	PROP	No significant responsive federal regulatory action. EPA seems to be moving forward with establishing

									a selenium criteria regardless, counter to NAM’s request.
Spill Prevention, Control and Countermeasure Plans (SPCC)	EPA	2050-AG87			LTA	PROP	PROP	FIN	No directly responsive federal regulatory action. NAM asks that EPA develop an analytical standard for oil detection and an exemption for facilities that are under the limit. In response to litigation, EPA is planning to issue an industry-friendly rule with no new requirements for spill prevention under the CWA.
Stormwater Management Best Management Practices	EPA								No significant responsive federal regulatory action
Testing and Diagnostics Requirements for Heavy Duty On Road Engines	EPA								No significant responsive federal regulatory action
Toxic Substance Control Act (TSCA) Regulations	EPA	2070-AK20		PROP	FIN	COM			NAM asks for implementation of TSCA reform bill to “encourage innovation” and identify chemicals as “low priority when exposures are low as required by law.” EPA undertakes rulemakings to reflect those goals, as described in a April 2017 press release .
Water Reuse	EPA								No significant responsive federal regulatory action
Worker Protection Standard (WPS)	EPA	2070-AK43				PROP	PROP	PROP	NAM asks for reconsideration of 2015 pesticide WPS. EPA issues a PR to revise the standard in December 2017 .
Employment Information Report (EEO-1) Form Change	EEOC								NAM asks for removal of a 2016 information request. In September 2017 EEOC stays the information correction and ultimately alters the form.
State and Local Barriers to 5G Deployment	FCC								NAM asks for federal intervention in securing public rights-of-way for placement of 5G antennas. FCC issues May 2018 rule “Accelerating Wireless Broadband Deployment by Removing Barriers to

									Infrastructure Investment.” FCC votes to cap state/local fees on 5G infrastructure in September 2018 .
Broadband Privacy Rules	FCC								NAM asks for rescission of 2016 broadband privacy rule. Rule repealed under the CRA March 2017 .
Protecting and Promoting Open Internet	FCC								NAM asks that the internet “remain open from unnecessary regulation.” February 2018 “Restoring Internet Freedom” rule reflects minimal federal regulation of the internet.
Updating Technology and Services: Wireline Discontinuance	FCC								NAM asks to eliminate the requirement that industry providers receive approval to upgrade technologies. FCC issues July 2018 final rule to remove approval requirements for provider upgrades.
Streamline FERC Permitting	FERC								No significant responsive federal regulatory action
Lead Agency Role for Siting Natural Gas Pipelines	FERC								NAM asks for direction from the White House to enforce FERC role as lead agency for pipeline siting decisions. The inter-agency MOU enforcing the August 2017 “One Federal Decision” EO 13807 specifies FERC as the lead agency for natural gas permitting decisions.
Ambush Elections	NLRB	3142-AA12 3142-AA08					PRE	LTA	NAM asks for rescission of 2014 Representation – Case Procedures rule. NLRB issues December 2017 RFI reevaluating rule.
Joint Employer Standard – <i>Browning Ferris</i> (362 NLRB No. 186)	NLRB								NAM asks for reversal of <i>Browning Ferris</i> decision. NLRB reverses in December 2017 Hy-Brand decision . Hy-Brand was later vacated due to conflicts of interests concerns. NLRB issued new JES NPRM in September 2018 .

Size of Collective Bargaining Unit - <i>Specialty Healthcare</i> (357 NLRB 934)	NLRB								NAM asks that <i>Specialty Healthcare</i> be overturned. NLRB overturns in December 2017 PCC Structurals decision .
Multiemployer Pension Plan System: Alternate Proposals for Withdrawal	PBGC								NAM asks for PBGC consideration of alternate proposals regard withdrawal liability for exiting a multiemployer plan. PBGC issues an April 2018 policy statement outlining factors for consideration of alternate plans.
Dodd-Frank/Sarbanes-Oxley Disclosure, Filing and Capital Requirements	SEC								No significant responsive federal regulatory action
CEO Pay Ratio Disclosure	SEC	3235-AL47							NAM asks for reconsideration of 2015 CEO pay ratio disclosure rule. SEC issues September 2017 interpretation that is generally non-responsive.
Clawback Proposed Rule	SEC	3235-AK99	FIN	FIN	LTA	LTA	LTA	LTA	NAM asks that the rule not be finalized as proposed. SEC has moved the proposal to LTA.
Conflict Minerals	SEC	3235-AK84							NAM asks for a suspension of the rule. SEC announces in April 2017 that it will suspend enforcement.
Pay vs. Performance Proposed Rule	SEC	3235-AL00	FIN	FIN	LTA	LTA	LTA	LTA	NAM asks that the rule not be finalized as proposed. SEC has moved the proposal to LTA.
Regulation S-K Disclosure Concept Release	SEC	3235-AM02			PROP	FIN	COM		NAM opposes additional disclosure requirements and calls for continued review. SEC completed its review and voted in favor of changes in August 2018 , SEC Chair spoke in favor of business-friendly changes. RM was undertaken in response to statutory mandate, FAST Act.
Shareholder Proxy Voting Process	SEC	3235-AL84	PROP	PROP	LTA	LTA	LTA	LTA	SEC calls for reform of the proxy voting based on “unreasonable proposals from activist shareholders.” SEC has moved the 2016 proposal to expand shareholder ability to vote by proxy to LTA.

Section 2704 Liquidation of an Interest	IRS	1545-BB71	PROP	PROP	FIN	COM			NAM asks that proposed rule be withdrawn. NPRM withdrawn October 2017 .
Section 385 Regulations: Treatment of Certain Interests in Corporations	IRS	1545-BO18				PROP	PROP	PROP	NAM asks for withdraw of 385 rule. SEC proposes new rule in Spring 2017 .
Tax Treatment of Independent Contractors	IRS								No significant responsive federal regulatory action
Health Insurance Compliance: 1094-C, 1095-C Reporting Requirements	IRS								No significant responsive federal regulatory action
Timber Harvests and Sales on Federal Lands	USDA, DOI								No significant responsive federal regulatory action
Export Controls	DOC, State, DOD								No significant responsive federal regulatory action
Streamlined LNG Export Permitting	DOE, FERC								NAM asks for streamlined authorization of LNG export to non-FTA countries. DOE issues July 2018 policy statement reinforcing commitment to long-term authorizations for export to non-FTA countries.
Critical Habitat Designation	FWS, NOAA	0648-BH41 0648-BB80				PROP	PROP	LTA	NAM asks for revisions to 2016 interagency rule. FWS and NOAA issue July 2018 PR to revise 2016 rule.
Waters of the United States (WOTUS)	USACE, EPA	2040-AF74			PROP	PROP	FIN	FIN	NAM asks for redefinition of WOTUS. EPA and USACE have issued several rules staying, rescinding and redefining the 2015 WOTUS rule, most recently in February 2019 .
Hydraulic Fracturing Regulations	DOI, EPA								NAM asks for states to remain primary fracking regulators and not impose “one-size-fits-all” federal regulations. Former Administrator Pruitt

									announced in May 2018 that EPA will study fracking wastewater management with a particular interest in “working with its regulatory partners at the state level.”
Fuel Economy and GHG Emissions Standards for Light Duty Vehicles	EPA, DOT	2127-AL76 2060-AU09		PRE	LTA	PROP	PROP	PROP	NAM asked for a reevaluation of CAFÉ standards for 2022-2025 vehicles. EPA/DOT announce revised standards in August 2018 PR.
Fair Pay and Safe Workplaces	FAR, DOL								NAM asks for withdrawal of “contractor blacklisting” rule. Rule repealed under CRA in March 2017 .
GMO Nutrition Facts Disclosure	FDA, USDA	0910-ZA49 (0910-AH92) 0910-AF22				PROP	FIN	COM	NAM asks for extension of compliance date for 2016 food labelling rule to align with forthcoming USDA labelling rules. FDA issues October 2017 PR to extend deadlines for certain manufacturers.
Food Inspections: “Dual Inspections”	FDA, FSIS								No significant responsive federal regulatory action
Social Cost of Carbon and Methane									NAM asks for withdrawal of social cost of carbon guidance. March 2017 EO 13783 repeals SCC guidance and disbands Interagency Working Group on Social Cost of Greenhouse Gases.