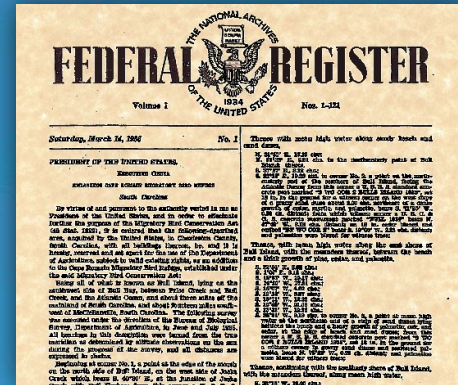




U.S. CHAMBER OF COMMERCE

What Alaskans need to know about Federal Overreach



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The 36th Annual Alaska Resources Conference – Anchorage, Alaska

How Washington works...

“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

Fundamental Question 1

How do environmental agencies acquire massive regulatory control over energy policy, land use and economic development at the expense of states that implement 92% of delegated federal environmental programs?

Fundamental Question 2

How do environmental agencies take a few words from a statute and impose on the business community massive laws that Congress could not enact?

Fundamental Question 3

How can Congress regain legislative authority over federal agencies?

Alaska knows the consequences...

Why Shell's Arctic drilling pullout hurts cash-strapped Alaska

by Tom Huddleston, Jr.

@tjhuddle

SEPTEMBER 29, 2015, 4:42 PM EST

FORTUNE

EPA email trail reveals Alaska Pebble Mine plot

By Valerie Richardson - *The Washington Times* - Thursday, November 5, 2015

POLITICO

Obama's Arctic power grab

President's green push trumps Alaska's long battle over ANWR

By ANDREW RESTUCCIA | 01/26/15 07:18 PM EST



ALASKA PUBLIC MEDIA

EPA Puts Pebble Mine on Hold

By Dan Vergano, [National Geographic](#)

PUBLISHED MARCH 02, 2014



fuelfix

Obama administration delivers big blow to Shell's Arctic drilling plans

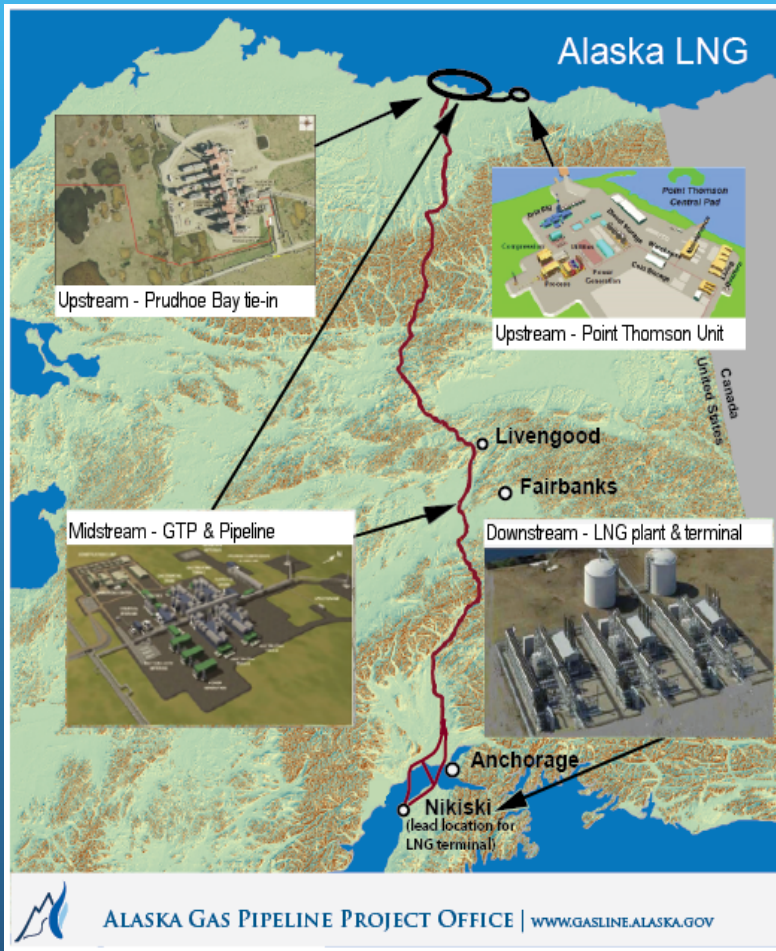
Posted on June 30, 2015 | By Jennifer A. Dlouhy

EIS forthcoming for proposed Donlin gold mine

By Lakeidra Chavis, [KYUK](#) - Bethel | September 28, 2015

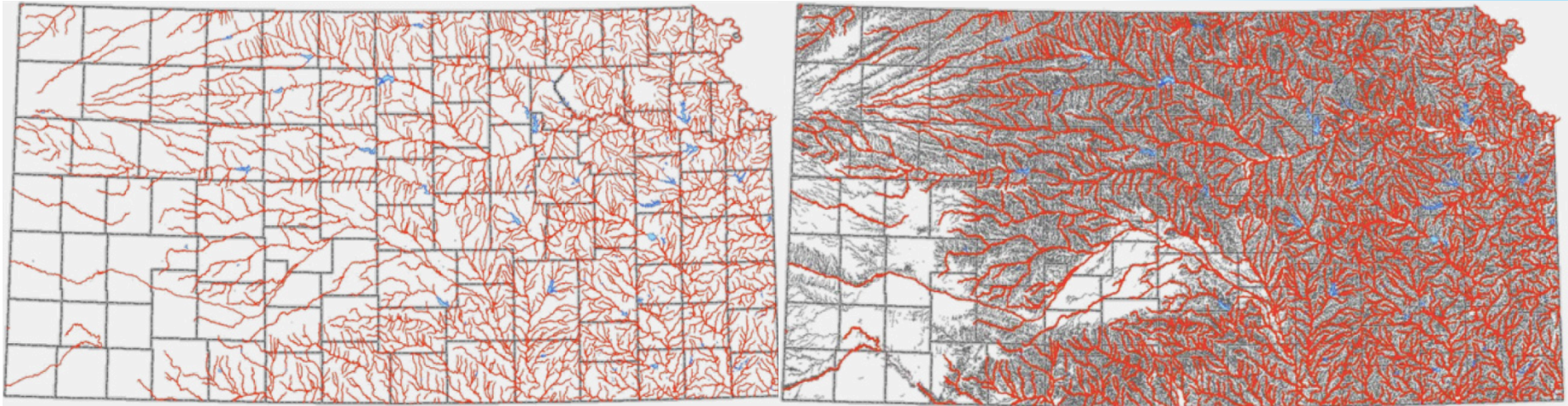
Before the mine can be built more than 150 permits and certifications must be approved by federal, state and local agencies. Approval from state agencies is ongoing, but in order to get federal approvals, an Environmental Impact Statement, or EIS, is required.

The Regulatory Pipeline of Approvals Needed for Alaska's LNG Project



- Federal Energy Regulatory Commission
- Bureau of Land Management
- U.S. Corps of Engineers
- Environmental Protection Agency
- Fish and Wildlife Service
- National Marine Fisheries Services
- Pipeline and Hazardous Materials Safety Administration
- Coast Guard
- Department of Energy
- Federal Communications Commission
- Federal Aviation Administration
- Homeland Security
- Bureau of Indian Affairs
- POTUS

WOTUS in Focus



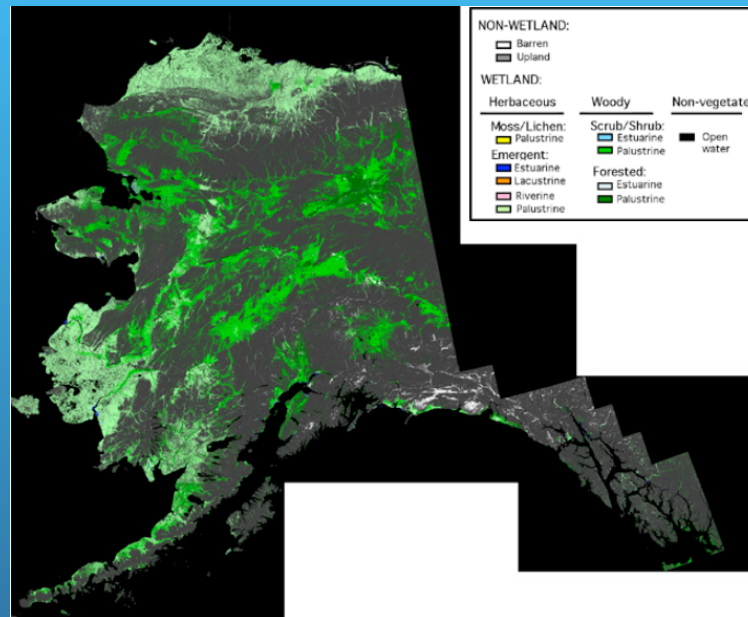
Currently Designated

- 2009 National Water Quality Inventory Report: 3.5 million rivers and stream miles
- 2012 EPA / USGS maps indicate 8.1 million river and stream miles

Additional

WOTUS extends jurisdiction to wetlands, and adjacent property, isolated ponds, prairie potholes, and irrigation ditches

WOTUS Impacts Alaska



Jane Whitcomb and Mahta Moghaddam (University of Michigan), Kyle McDonald and Erika Podest (Jet Propulsion Laboratory, Pasadena), and Josef Kellnorder (Woods Hole Research Center) *Wetlands Map of Alaska Using L-Band Radar Satellite Imagery*

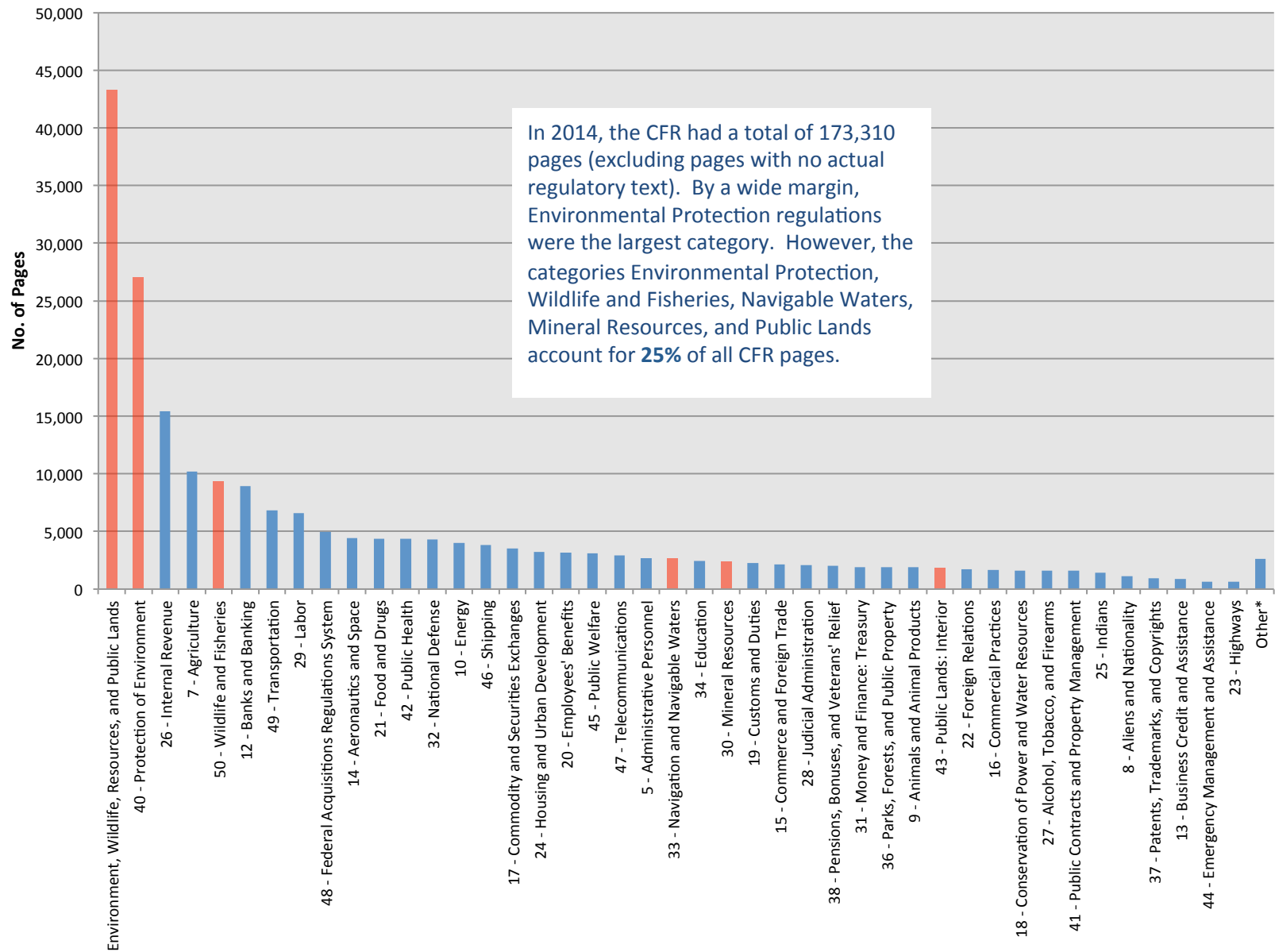
- Alaska has nearly half of all wetland in the U.S.
- Nearly 40% of Alaska is wetlands

In Just the Last Five Months...

EPA finalized 3 new regulations of deep “economic and political significance”

1. WOTUS (controls nationwide land use)
 2. Clean Power Plan (controls state energy mix)
 3. Ozone (controls where business can locate)
- States implement 92% of all EPA delegated programs
 - EPA contributes less than 25% of cost

2014 Code of Federal Regulations



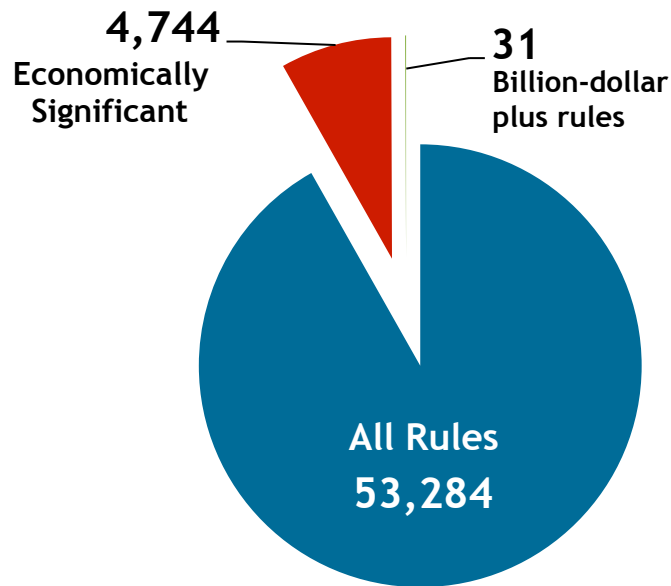
* Other includes Federal Elections, Postal Service, The President, Grants and Agreements, Domestic Security, Accounts, and General Provisions.

Citizen Suits Enforcement

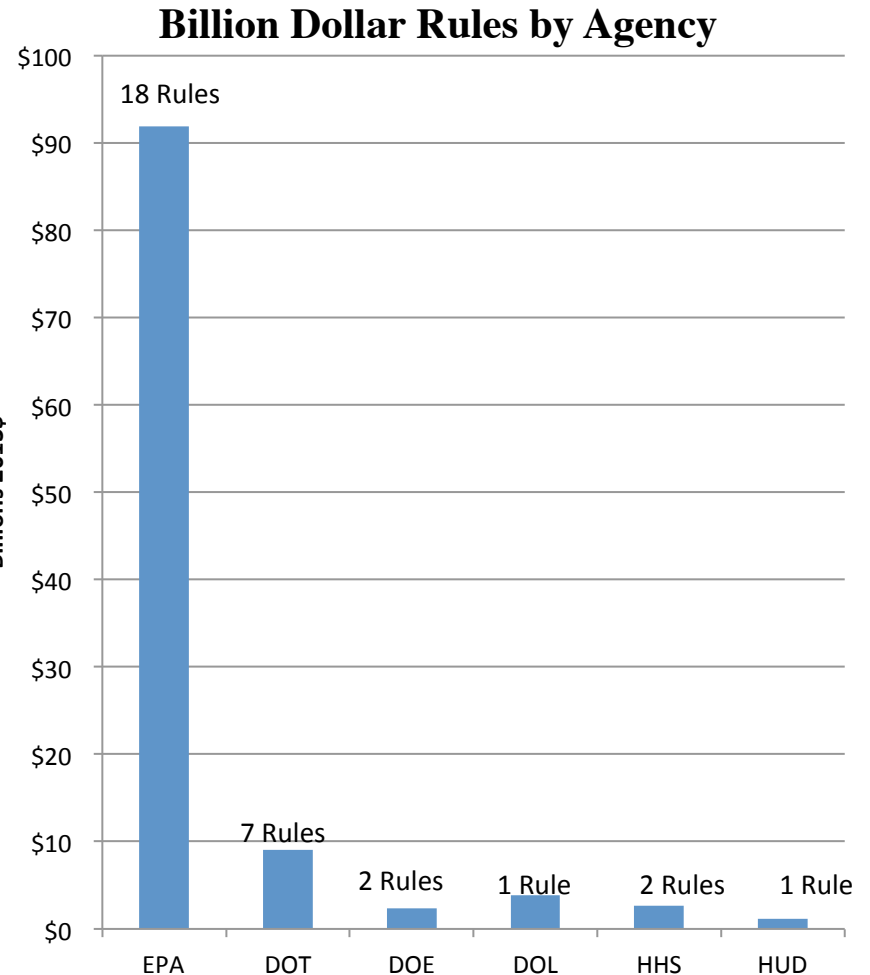
Statute	Provision
Act to Prevent Pollution from Ships	33 USC § 1910
Clean Air Act	42 USC § 7604
Clean Water Act	33 USC § 1365
Superfund Act	42 USC § 9659
Deepwater Port Act	33 USC § 1515
Deep Seabed Hard Mineral Resources Act	30 USC § 1427
Emergency Planning and Community Right-to-Know Act	42 USC § 11046
Endangered Species Act	16 USC § 1540(g)
Energy Conservation Program for Consumer Products	42 USC § 6305
Marine Protection, Research and Sanctuary Act	33 USC § 1415(g)
National Forests, Columbia River Gorge National Scenic Area	16 USC § 544m(b)
Natural Gas Pipeline Safety Act	49 USC § 60121
Noise Control Act	42 USC § 4911
Ocean Thermal Energy Conservation Act	42 USC § 9124
Outer Continental Shelf Lands Act	43 USC § 1349(a)
Powerplant and Industrial Fuel Use Act	42 USC § 8435
Resource Conservation and Recovery Act	42 USC § 6972
Safe Drinking Water Act	42 USC 300j-8
Surface Mining Control and Reclamation Act	30 USC § 1270
Toxic Substances Control Act	15 USC § 2619

High Impact Rules are Agency Laws Congress Cannot Enact

There were 58,090 rules finalized between 2000 and 2014, of which 4,775 were considered "economically significant" under E.O. 12,866 and 31, or 0.0005% of the total, imposed annual compliance costs of \$1 billion or more.

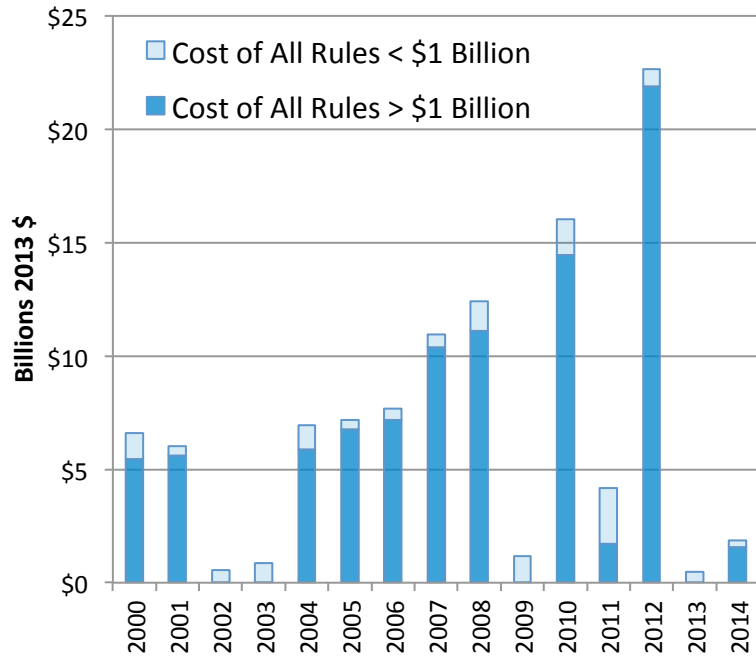


* Note that Billion Dollar Rules do not include independent agency rules, while the total rule count and number of economically significant rules do.



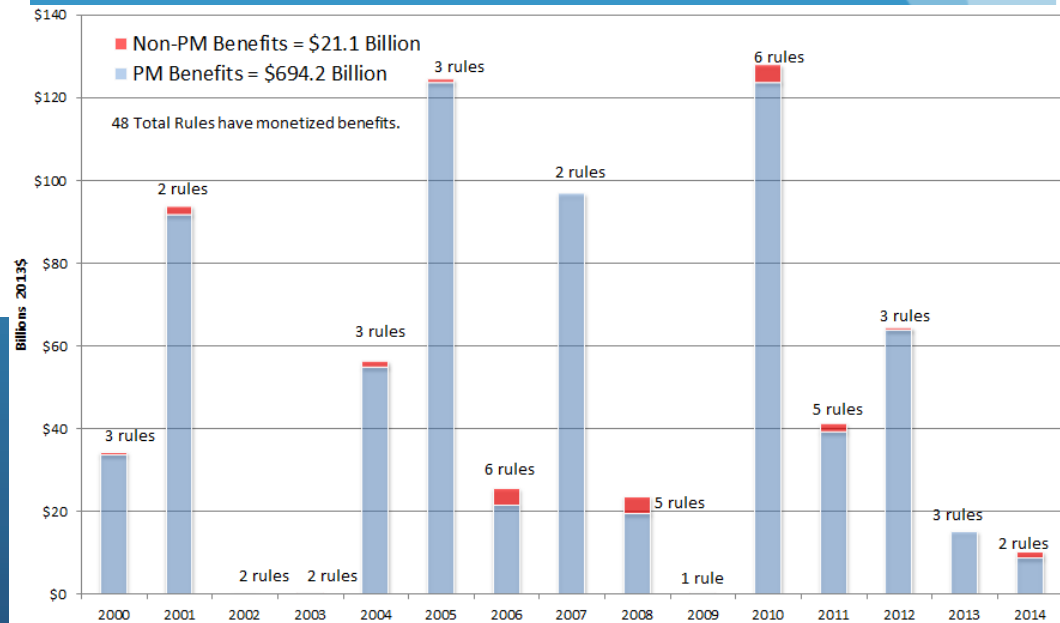
EPA Regulatory Costs by Size of Rules

2000-2014



Annualized Benefits: PM vs. Non-PM Benefits

97.2% of All EPA Benefits from 2000 to 2014 are PM Benefits



Does it Matter who Makes the Laws?

Article 1 of the U.S. Constitution: “All legislative powers... shall be vested in Congress of the U.S. ...”

Congress	Agency	Courts
Elected	Appointed	Appointed
Can be easily replaced	Difficult to replace	Impossible to replace
Interaction with voters, communities, interest groups	Interacts in secret with interest groups	Law is what the court says it is
Balances many competing issues, constituencies, to keep job	Very focused on specific issues; little concern for impact on citizens, communities	Should only focus is what is before it
Controls the purse	Controls sectors of economy by mandates	Great power to control nation by interpreting what a law means
Needs significant consensus to legislate	Rule of one can create mandates on specific sectors	Judge made law on specific issues

How do Agencies Acquire Massive Legislative Power

Decades ago Congress delegated regulatory authority to Agencies



Courts recognized Congress' right to delegate to Agencies



Courts deferred to agency decisions fostering more aggressive rules



Activist “Sue and Settle” agreements commandeer agency agenda



Congress cannot reclaim legislative control

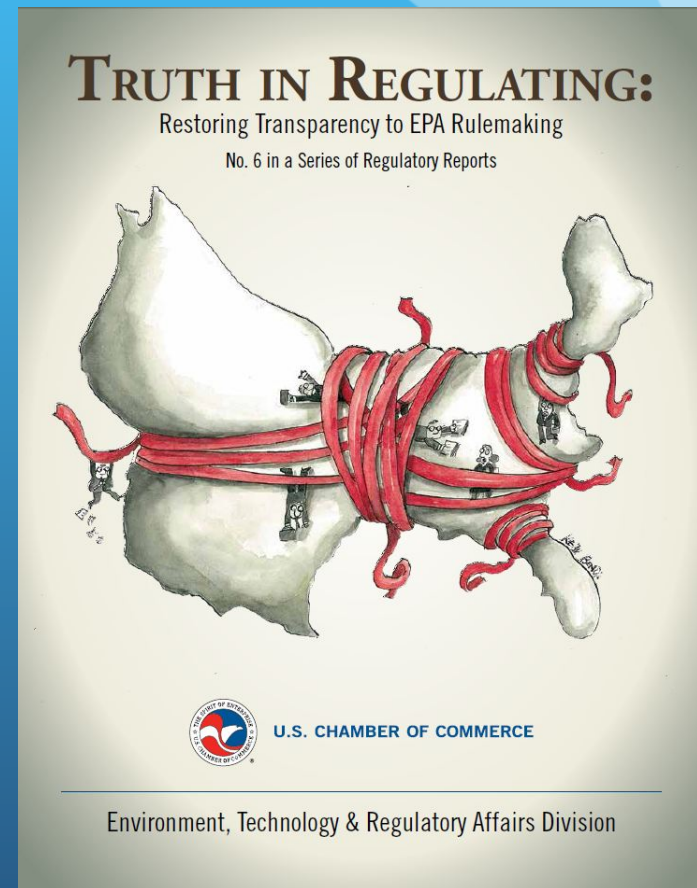


Will the Courts help?

How could Congress Control Federal Regulatory Power?

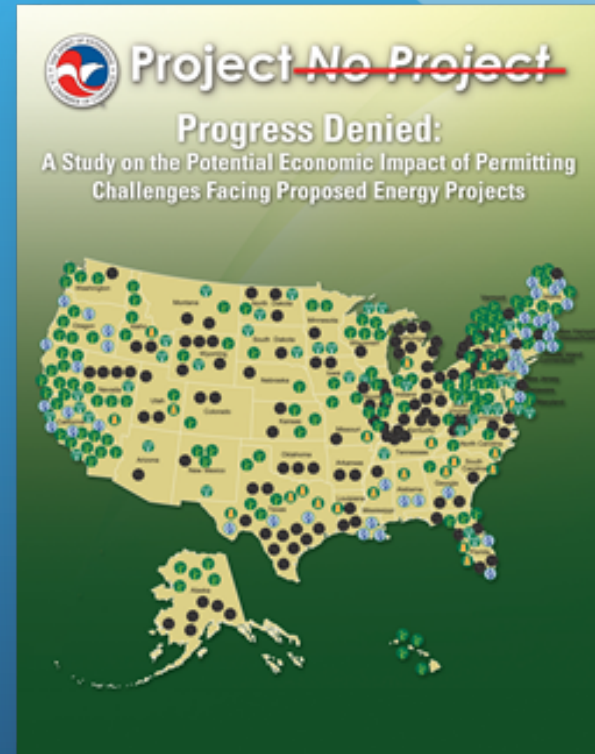
Regulatory Accountability Act

Legislating
should be as
difficult
for an agency as
it is for Congress



Permit Streamlining

The builders of
his nation
deserve a process
that ensures
decisions will be
made in a timely
manner



Sue and Settle Legislation

The courts and an agency's policy making process should be open to all



Automatic Stay of High Impact Regulations

Agencies should not be able to destroy industries until their rules are deemed valid by the courts



Even when EPA loses, it wins!

The Hill reports an exchange **EPA chief Gina McCarthy** had with Bill Maher on his weekly show *Real Time With Bill Maher*:

“This is a rule (Utility MACT) that actually regulates toxic pollution emissions from primarily coal facilities, and we think we’re going to win because we did a great job on it,” she said.

“But even if we don’t, it was three years ago. Most of them are already in compliance, investments have been made, and we’ll catch up. And we’re still going to get at the toxic pollution from these facilities,” she continued.

EPA lost in the Supreme Court but over 200 coal fired coal plants (40% of total plants) shut down