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## Sacrificing Public Protections on the Altar of Deregulation

A Close Look at the Rulemakings Halted by the Administration on the Spring 2017 Unified Agenda of Regulatory and Deregulatory Actions

## **Acknowledgments**

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## Introduction and Key Findings

President Donald Trump has made deregulation a central point of emphasis. One of Trump's first actions as president was signing an executive order that instructed executive branch agencies to identify two regulations to eliminate for every regulation they added.<sup>1</sup> Public Citizen has sued the administration over this order because it will force the repeal of regulations needed to protect health, safety, and the environment. Repealing these regulations would be inconsistent with the requirements in underlying statutes.<sup>2</sup>

Trump administration press secretary Sarah Huckabee Sanders recently claimed that the administration has “gotten rid of nearly 1,000 regulations.”<sup>3</sup> This is false.<sup>4</sup> But the Trump administration has done a lot to slow down or stop ongoing rulemakings.

Aside from actions intended to remove regulations already on the books, the administration also has halted work on rulemakings that are being created but not yet completed. This process, known as withdrawing the rulemaking, can be done very quickly – unlike eliminating an existing rule, which requires extensive procedures.

When a rulemaking is withdrawn, the action is noted on the government's “Unified Agenda” of federal regulatory and deregulatory actions. The agenda, which is published twice a year by the Office of Management and Budget, compiles individual agencies' ongoing and recently completed rulemakings.<sup>5</sup> Unified Agendas are available online dating back to 1995.<sup>6</sup>

When the Trump administration, in July, released its first Unified Agenda, it boasted of the number of “ineffective, duplicative, and obsolete” regulations it had withdrawn or otherwise stalled.<sup>7</sup> This report analyzes data from more than 20 years of the federal government's Unified Agendas to determine how the Trump administration's first agenda, Spring 2017, compares in terms of withdrawn rulemakings. This analysis also describes more than 35 examples of regulations that were listed as withdrawn on the Trump administration's first agenda.

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<sup>1</sup> OFFICE OF THE PRESS SECRETARY, PRESIDENTIAL EXECUTIVE ORDER ON REDUCING REGULATION AND CONTROLLING REGULATORY COSTS, THE WHITE HOUSE (Oct. 6, 2016), <http://bit.ly/2kpwEA3>.

<sup>2</sup> Public Citizen, Inc., Natural Resources Defense Council, Inc., and Communications Workers of American, AFL-CIO, v. Donald Trump, et al., No. 17-243 (D. District of Columbia filed April 21, 2017), [https://www.citizen.org/system/files/case\\_documents/first\\_amended\\_complaint.pdf](https://www.citizen.org/system/files/case_documents/first_amended_complaint.pdf).

<sup>3</sup> WHITE HOUSE DAILY BRIEFING, CSPAN (Oct. 24, 2017), <http://cs.pn/2yQhto3>.

<sup>4</sup> Sanders may have been referencing the administration's claim that it withdrew 469 rulemakings and reclassified another 391 to long term or inactive, *See* <http://bit.ly/2yLpHeC>. This would put the total number of slowed down or withdrawn rulemakings at 860.

<sup>5</sup> CURTIS COPELAND, CONGRESSIONAL RESEARCH SERVICE, THE UNIFIED AGENDA: IMPLICATIONS FOR RULEMAKING TRANSPARENCY AND PARTICIPATION (July 20, 2009), at 14, <http://bit.ly/20LQxK1>. *See*, <http://www.reginfo.gov/public/>. Note: In 2012, only one Unified Agenda was published.

<sup>6</sup> *See*, <http://www.reginfo.gov/public/>. Note: The majority of rulemakings categorized as “informational/administrative” (which may make up as many as 70 percent of all rulemakings) are not included in the Unified Agenda. Examples include the U.S. Coast Guard establishing timetables for operation of drawbridges. *See*, CURTIS COPELAND, ADMINISTRATIVE CONFERENCE OF THE UNITED STATES, CONGRESSIONAL REVIEW ACT: MANY RECENT FINAL RULES WERE NOT SUBMITTED TO GAO AND CONGRESS (July 15, 2014), <http://1.usa.gov/28N7bo8>.

<sup>7</sup> *Current Unified Agenda of Regulatory and Deregulatory Actions*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yLpHeC>.

### Overview of All Withdrawn Rulemakings

- In total, the Trump administration listed 457 rulemakings as withdrawn on its Spring 2017 Unified Agenda. This total is the most of any agenda since 1995, our analysis found.
- 38 percent of the withdrawn rulemaking were categorized as “significant.” These included, 4 percent that were categorized as “Economically Significant” and 34 percent that were categorized as “Other Significant.” Economically Significant rules are those that are expected to have an economic impact of at least \$100 million. Rules may be categorized as “Other Significant” if they raise novel policy issues, affect multiple agencies, materially affect federal spending programs or meet other criteria.<sup>8</sup>
- On average, the rulemakings withdrawn by the Trump administration first appeared on a Unified Agenda in 2011.
- 26 rulemakings withdrawn by the Trump administration had an associated statutory deadline. This status is notable because it means that Congress not only mandated the creation of the given regulation but set a date by which it expected the regulation to be completed.
- Close to 40 percent, or 180, of the withdrawn rulemakings had not appeared on the Unified Agenda in years, meaning that they were likely dormant rulemakings.
- Withdrawn rulemakings are rarely listed in the Federal Register – leaving the public in the dark until a Unified Agenda is published.
- Of the 457 rulemakings withdrawn by the Trump administration, a quarter of them were under the purview of the Department of the Interior (DOI). DOI was followed by Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) with 68 and 61, respectively.

### Health and Human Services (HHS) Withdrawn Rulemakings

**The Department of Health and Human Services** listed 68 rulemakings as withdrawn on the Spring 2017 Unified Agenda. HHS had the most “significant” rulemakings withdrawn – 54 in total. Nine of these were Economically Significant.

**The Food and Drug Administration (FDA)** had the most withdrawn rulemakings of any HHS agency, 26, five of which were categorized as Economically Significant. The FDA withdrew at least seven tobacco or smokeless tobacco related rulemakings.<sup>9</sup> The FDA also withdrew a

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<sup>8</sup> Regulatory Planning and Review, Executive Order 12866, 1993, OFFICE OF THE PRESIDENT (Sept. 30, 1993), <http://bit.ly/2zyCyTN>.

<sup>9</sup> See seven HHS/FDA rulemakings, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), *Establishment Registration and Product Listing for Tobacco Products* <http://bit.ly/2gab7sc>, *Requirements for Tobacco Product Manufacturing Practice* <http://bit.ly/2i1vKaI>, *Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products* <http://bit.ly/2gusEbH>, *Record-Keeping Requirements for Certain Submissions to FDA* <http://bit.ly/2gMYqAY>, *Requirements for the Testing and Reporting of Tobacco Product Constituents*,

rulemaking that would have required prescription drug labeling information intended for patients be presented in a “clear and concise” way so patients can “safely and effectively” take their drugs.<sup>10</sup>

**Centers for Medicare & Medicaid Services (CMS)** withdrew a rulemaking proposed to ensure same-sex spouses are “afforded equal rights in Medicare participating facilities.”<sup>11</sup> The rulemaking was proposed in response to the landmark Supreme Court decision in *United States v. Windsor*,<sup>12</sup> which found the federal law banning gay marriage – known as the Defense of Marriage Act (DOMA) – to be unconstitutional.

**Substance Abuse and Mental Health Services Administration (SAMHSA)** withdrew three rulemakings, each of which was categorized as Other Significant. One withdrawn rulemaking was proposed to increase access to the drugs buprenorphine and buprenorphine-naloxone combination, which are used to treat opioid addiction. The rulemaking would have allowed nurse practitioners and physicians assistants to administer the drugs to more patients.<sup>13</sup>

### Department of the Interior (DOI) Withdrawn Rulemakings

**The Department of the Interior** listed 114 rulemakings as withdrawn on the Spring 2017 Unified Agenda – the most of any agency.

**U.S. Fish and Wildlife Service (FWS)** accounted for about close to half of all withdrawn DOI rulemakings. About 40 of the withdrawn Fish and Wildlife Service rulemakings were related to the protection of endangered species or critical habitats, including at least 15 different bat species,<sup>14</sup> 23 Guam and Northern Mariana Island species,<sup>15</sup> an endangered bumble bee species,<sup>16</sup> and multiple plant species in the Florida everglades.<sup>17</sup>

**National Park Service (NPS)** withdrew a rulemaking that would phase out commercial fishing in the Biscayne National Park in Florida.<sup>18</sup> In 2014, NPS developed a management plan to

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*Ingredients, and Additives* <http://bit.ly/2v5tQYV>, *Tobacco Product Standard* <http://bit.ly/2xv2NLR> and *Smokeless Tobacco Warning Labels* <http://bit.ly/2y9xziW>.

<sup>10</sup> HHS/FDA, *Patient Medication Information*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yeS4nl>.

<sup>11</sup> HHS/CMS, *Revisions to Patient's Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yDIA7k>.

<sup>12</sup> HHS/CMS, *Revisions to Patient's Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xAzCBG>.

<sup>13</sup> HHS/SAMHSA, *Medication Assisted Treatment for Opioid Use Disorders--Nurse Practitioners and Physician Assistants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zvYa0D>.

<sup>14</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Listing Determinations for 15 Bat Species*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gsVIFl>.

<sup>15</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for 23 Guam and Northern Mariana Islands Species*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zdABcP>.

<sup>16</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Rusty Patched Bumble Bee*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gsmI6Y>.

<sup>17</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Four Everglades Plants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xuumo1>.

<sup>18</sup> DOI/NPS, *Biscayne National Park--Commercial Fishing*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2hqPguc>.

“protect and restore<sup>19</sup> Biscayne’s “diminishing fisheries resources,”<sup>20</sup> and its coral reef habitats. Brian Carlstrom, the former superintendent of Biscayne National Park, believed the situation was dire, “We’ve gotta do something,” he reportedly said, “if you take the last fish out, that’s the last fish.”<sup>21</sup>

**Office of Surface Mining Reclamation and Enforcement (OSMRE)** withdrew multiple coal-related rulemakings. One withdrawn rulemaking would have established standards related to the placement of coal combustion residue.<sup>22</sup> Another withdrawn rulemaking would have ensured that coal mining operators are better able prevent injuries and property damage due to the toxic gases released when blasting occurs in a coal mines.<sup>23</sup>

A third withdrawn rulemaking would have ensured that coal mining businesses could not postpone conducting reclamation work by pausing coal-mining activities for an indefinite period of time.<sup>24</sup> Reclamation is the process of rehabilitating land after coal is mined.<sup>25</sup>

**Bureau of Safety and Environmental Enforcement (BSEE)** withdrew multiple rulemakings that would have regulated oil and natural gas extraction. One withdrawn rulemaking was proposed to improve risk assessment, produce a more efficient permitting process, and improve safety in offshore oil and natural gas drilling.<sup>26</sup>

### Department of Labor (DOL) Withdrawn Rulemakings

**The Department of Labor** listed 26 rulemakings as withdrawn on the Spring 2017 Unified Agenda. Four of the withdrawn DOL rulemakings were categorized as Economically Significant and 17 were categorized as Other Significant.

**Occupational Safety and Health Administration (OSHA)** withdrew 12 rulemakings, four of which were categorized as Economically Significant. A rulemaking proposed to help prevent workplace vehicle backover injuries and fatalities was withdrawn.<sup>27</sup> A commonsense proposal to require “employers to implement an Injury and Illness Prevention Program,” a preventive

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<sup>19</sup> Biscayne National Park Florida, *Fishery Management Plan Environmental Impact Statement*, NATIONAL PARK SERVICE (November 2014), <http://bit.ly/2z8zpkQ>.

<sup>20</sup> *Id.*

<sup>21</sup> Jenny Staletovich, *New rules, No-Fishing Zone for Biscayne National Park*, MIAMI HERALD (June 4, 2015), <http://hrlid.us/2gRzU1c>.

<sup>22</sup> DOI/OSMRE, *Placement of Coal Combustion Residues in Active and Abandoned Mines*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xSXSnP>.

<sup>23</sup> DOI/OSMRE, *Toxic Gases and Blasting*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yAz7LP>.

<sup>24</sup> DOI/OSMRE, *Temporary Cessation of Operations*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xRQ9G9>.

<sup>25</sup> DOI/OSMRE, *Temporary Cessation of Operations*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2znDbfF>.

<sup>26</sup> DOI/BSEE, *Improvements in Incident Reporting, Risk-Based Inspections, and Leading and Lagging Indicators*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yzyiTC>.

<sup>27</sup> DOL/OSHA, *Preventing Backover Injuries and Fatalities*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zlyHqN>.

measure designed to protect workers and fix hazards, was withdrawn.<sup>28</sup> And another rulemaking proposed to limit employees' exposure to styrene, a chemical that may cause cancer, was withdrawn.<sup>29</sup>

OSHA also withdrew a rulemaking to create a combustible dust standard to prevent fires and explosions.<sup>30</sup> The rulemaking was part of a response to the 2008 combustible dust fire explosion at the Imperial Sugar Company in Port Wentworth, Ga., which killed 14 workers and injured 38 others.<sup>31</sup> According to a government investigation, the explosion was caused by "massive accumulations of combustible sugar dust."<sup>32</sup>

**Wage and Hour Division (WHD)** withdrew a rulemaking proposed to "carry out the spirit" of "Rosa's Law" – a law passed in 2010 to ensure that the terms "mental retardation" and "mentally retarded" would be replaced with "intellectual disability" in certain areas of federal policy.

**Mine Safety and Health Administration (MSHA)** withdrew a rulemaking that sought to address the hazards exposed by the 2010 Upper Big Branch coal mine explosion in West Virginia.<sup>33</sup> The explosion killed 29 miners. Donald Blankenship, the CEO of Massey Energy, the company that controlled the mine, was convicted and sentenced to prison for "conspiring to violate federal mine safety standards."<sup>34</sup>

### **Environmental Protection Agency (EPA) Withdrawn Rulemakings**

**The Environmental Protection Agency** listed 20 rulemakings as withdrawn on the Spring 2017 Unified Agenda. None of withdrawn EPA rulemakings were categorized as Economically Significant. Seven were categorized as Other Significant.

**Regional Office Denver (RODENVER)** withdrew a rulemaking to ensure safe air quality related to oil and natural gas drilling in the Uintah and Ouray Indian Reservations in Utah. The EPA had previously found that areas within the reservation had "been experiencing wintertime ozone levels that exceed the National Ambient Air Quality Standards."<sup>35</sup>

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<sup>28</sup> DOL/OSHA, *Injury and Illness Prevention Program*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xDyqIV>.

<sup>29</sup> DOL/OSHA, *Occupational Exposure to Styrene*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xDjIX1>.

<sup>30</sup> DOL/OSHA, *Combustible Dust*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i9j7uk>.

<sup>31</sup> Investigation Information, *Imperial Sugar Company Dust Explosion and Fire*, UNITED STATE CHEMICAL SAFETY BOARD (Sept. 2009), <http://bit.ly/2xU7mdo>.

<sup>32</sup> *Id.*

<sup>33</sup> Alan Blinder, *Donald Blankenship Sentenced to a Year in Prison in Mine Safety Case*, THE NEW YORK TIMES (April 6, 2016), <http://nyti.ms/2zoWUvr>.

<sup>34</sup> *Id.*

<sup>35</sup> EPA/RODENVER, *Federal Implementation Plan for Existing Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xjPw3P>.

**Office of Air and Radiation (OAR)** withdrew a rulemaking proposed to regulate methane emissions from “existing” oil and natural gas resources.<sup>36</sup> Methane is the second most common greenhouse gas emitted in the United States, according to the EPA.<sup>37</sup>

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The administration's fervor for killing off rulemakings will leave will leave workplaces less safe, the environment less clean and may ultimately cost lives.

While this analysis details many rulemakings, particularly many health and safety rulemakings, many other withdrawn rulemakings may interest various stakeholders. As such, along with this report, Public Citizen has published a dataset of all the withdrawn rulemakings on the Spring 2017 agenda. [[Download here](#)]

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<sup>36</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i2LflO>.

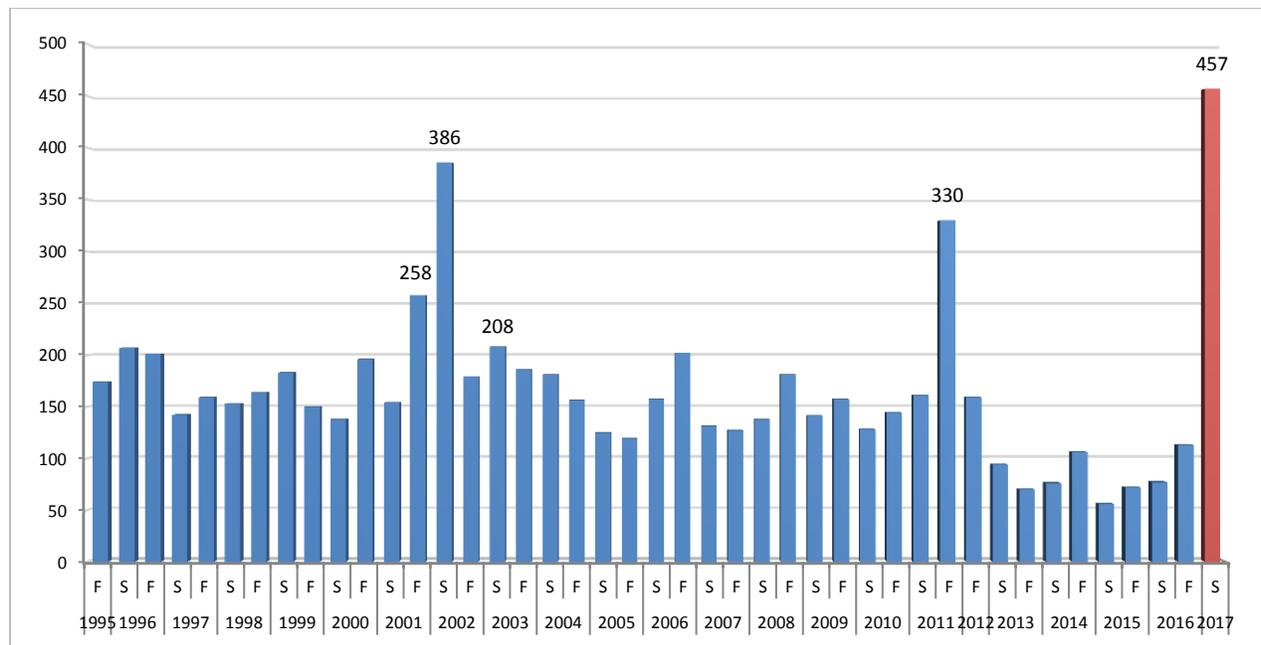
<sup>37</sup> News Releases, *EPA Releases First-Ever Standards to Cut Methane Emissions from the Oil and Gas Sector*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (May 12, 2016), <http://bit.ly/2hqXmD1>.

## I. The Spring 2017 Unified Agenda Included More Than 450 Withdrawn Rulemakings – The Most on Record

Since the Fall 1995 Unified Agenda was published, more than 7,000 rulemakings have been withdrawn. President Trump’s first Unified Agenda, Spring 2017, listed 475 withdrawn actions – the most of any agenda in this timespan.<sup>38</sup>

A few rulemakings listed as withdrawn on the Spring 2017 agenda were withdrawn at the tail end of the Obama administration, prior to Trump assuming office on Jan. 20, 2017. The number of rules listed as withdrawn on the Spring 2017 Unified Agenda that could be attributed to Trump is 457. [See Figure 1 below; methodology for Figure 1 in footnotes.]

**Figure 1 – Withdrawn Rulemakings by Unified Agenda – Fall 1995 Through Spring 2017<sup>39</sup>  
(Top Five Highlighted)**



To put that total in perspective, Trump’s Spring 2017 agenda includes more withdrawn rulemakings than the combined total of Spring and Fall agendas for all but two years – 2002 and 2011. Therefore, after the Trump administration releases its first Fall unified agenda later this year, it is very likely 2017 will be the year in which the most withdrawn rulemakings have appeared on the Unified Agenda.

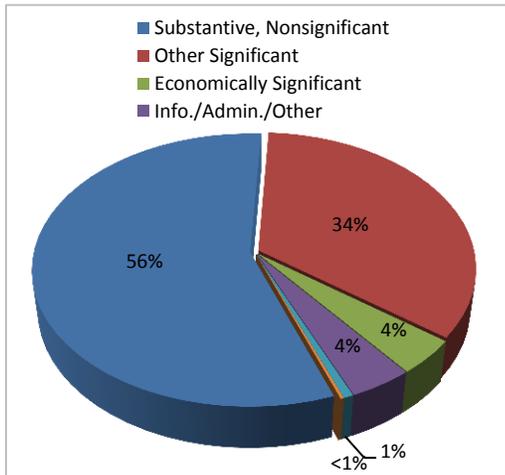
<sup>38</sup> The administration has announced it withdrew 469 rulemakings. [<https://www.reginfo.gov/public/do/eAgendaMain>] Our methodology in Appendix I explains the slight difference. On record is defined as 1995 to present. 1995 is the earliest year for which Unified Agendas are available online.

<sup>39</sup> For 1995, only the Fall agenda is available for download. In 2012, only the Fall agenda was published. For the first Spring agenda published after a presidential election in which a new administration enters office (Spring 2001, Spring 2009, and Spring 2017) we attributed rulemakings withdrawn prior to Jan. 20 to be part of the previous administration’s final agenda.

All of the Unified Agendas with more than 200 withdrawn rulemakings are noted with labels at the top of the bars in Figure 1. Trump's 2017 Spring agenda is followed by George W. Bush's Spring 2002 agenda (386) and Barack Obama's Fall 2011 agenda (330).

### Priority Category

**Figure 2 – Priority Categorization Breakdown of Withdrawn Rulemakings on the Spring 2017<sup>40</sup>**



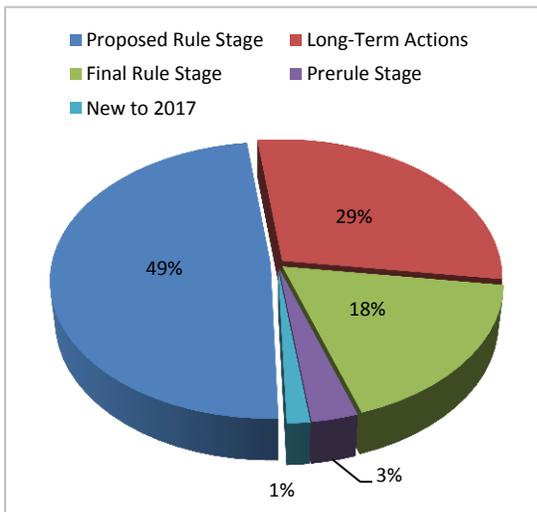
About 38 percent of the 457 withdrawn rulemakings listed in the Spring 2017 agenda were categorized as “significant” (Economically Significant or Other Significant).

The majority of those regulations were categorized as Other Significant. The agenda included 19 Economically Significant withdrawn rulemakings and 157 Other Significant ones. These totals represent the most withdrawn rulemakings of “significant” status to be listed as withdrawn on any Unified Agenda since 1995 – by a large margin. For example, the Unified Agenda with the next most Economically Significant and Other

Significant withdrawn actions was the Spring 2002 agenda, with 10 and 89, respectively.

### Rule Stage on the Previous Unified Agenda

**Figure 3 – Priority Categorization Breakdown of Withdrawn Rulemakings on the Spring 2017**



Rulemakings proceed in several stages, the most prominent of which are the proposed rule and final rule stages.

Forty-nine percent of the rulemakings withdrawn by the Trump administration were in the proposed rule stage in the most recent Unified Agenda on which they appeared (this includes rulemakings that did not appear on the Fall 2016 agenda and may not have appeared on any agenda in years). Generally speaking, a rulemaking enters the proposed rule stage prior to the issuance of a proposed rule.

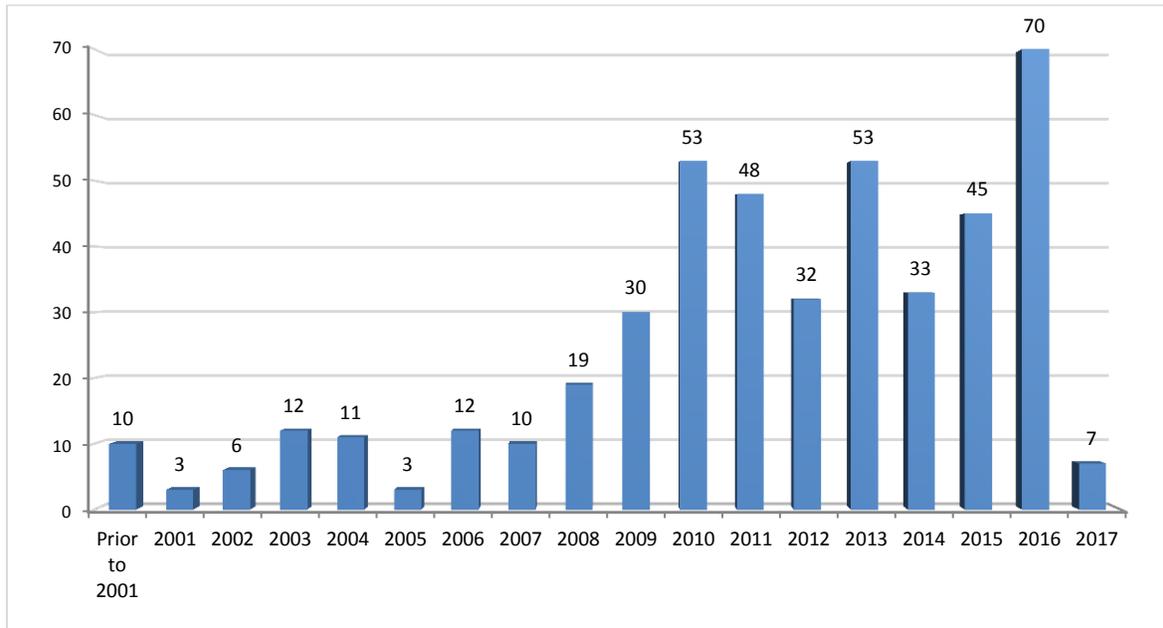
Eighteen percent of the withdrawn rulemakings were listed as in the final rule stage on the most recent agenda on which they appeared. Generally speaking, these rulemakings were near completion prior to being withdrawn by the Trump administration.

<sup>40</sup> One DOD rule withdrawn by the Trump administration listed no priority, See <http://bit.ly/2ybYdAP>

### First Appearance on the Unified Agenda

The vast majority, 81 percent, of rulemakings withdrawn by the Trump administration first appeared on the Unified Agenda prior to 2016. More than half of the rulemakings first appeared on the Unified Agenda prior to 2013. [See Figure 4]

**Figure 4 – First Appearance on the Unified Agenda Among Rules Withdrawn in 2017**



On average, the 457 rulemakings withdrawn by the Trump administration first appeared on a Unified Agenda in 2011.

### Statutory and/or Judicial Deadlines

Twenty-six rulemakings withdrawn by the Trump administration had an associated statutory deadline. This means that Congress mandated that an agency complete the regulation by a given date. Health and Human Services (HHS) and the Department of the Interior (DOI) withdrew the most rulemakings with a statutory deadline, 13 and 10, respectively. These rulemakings are discussed further in the following section. [See Appendix II for all withdrawn rulemakings with a statutory requirement]

Two withdrawn rulemakings, both of which were under the purview of the Department of the Interior (DOI), had an associated judicial deadline. This means that a court had tasked the agency with completing that regulation by a certain date. Both rulemakings were U.S. Fish and Wildlife Service rulemakings.<sup>41</sup> The Unified Agenda entry for both rulemakings indicated that there was a settlement agreement associated with the judicial deadline, which may have allowed the withdrawal of the rulemaking.

<sup>41</sup> Two DOI withdrawn rules also with judicial deadlines, See <http://bit.ly/2vzwwRE> and <http://bit.ly/2u8ai5a>

## II. Trump Administration’s Withdrawn Rulemakings by Agency

A quarter of the 457 withdrawn rulemakings were under the purview of the Department of the Interior (DOI). DOI was followed by Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) with 68 and 61, respectively. [See Table 1]

**Table 1 – Trump Administration Withdraw Rulemakings by Agency**

Agency	Total	Average First Appearance on a UA	Economically Significant	Other Significant	All Other Priorities	Rulemakings with a Statutory Deadline
DOI <sup>42</sup>	114	2013		14	100	10
HHS	68	2012	9	45	14	13
USDA	61	2010		17	44	
TREAS	41	2009	1		40	1
DOD	26	2012		4	22	
DOJ	26	2006		17	9	
DOL	26	2012	4	17	5	
DHS	21	2008	1	12	8	1
EPA	20	2010		7	13	
DOE	9	2014	2	1	6	
DOT	6	2012	1	2	3	1
ED	3	2015	1		2	
DOC	2	2014		1	1	
Only Sub Agency Listed	34	2012		20	14	
<b>Total</b>	<b>457</b>	<b>2011</b>	<b>19</b>	<b>157</b>	<b>281</b>	<b>26</b>

HHS had the most significant rulemakings withdrawn – 54 in total. It also had by far the most Economically Significant rules – nine.

This section focuses on four agencies charged with protecting public health and the environment: Department of the Interior (DOI), Health and Human Services (HHS), Department of Labor (DOL) and Environmental Protection Agency (EPA).

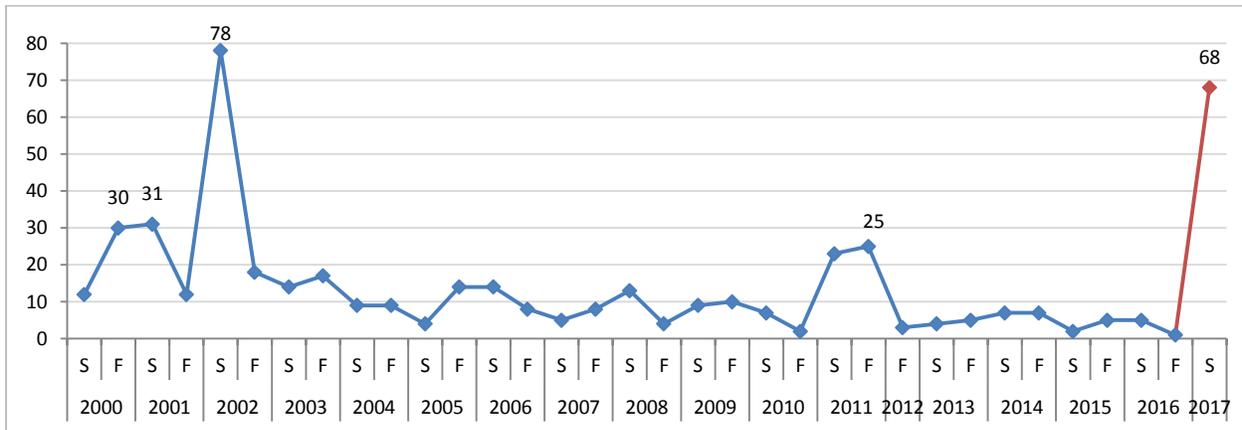
Detailed figures and tables for the seven remaining agencies that are not discussed in detail, as well the sub agencies with no overarching agency, are in Appendix III.

<sup>42</sup> Two DOI withdrawn rules also had a judicial deadline, See <http://bit.ly/2vzwwRE> and <http://bit.ly/2u8ai5a>

### Health and Human Services (HHS) Withdrawn Rulemakings

The Trump administration listed 68 Health and Human Services (HHS) rulemakings as withdrawn on the Spring 2017 Unified Agenda. In historical context, this total is second to only the 78 HHS rulemakings that the George W. Bush administration listed as withdrawn on the Spring 2002 agenda. Nine of the withdrawn HHS rulemakings were categorized as Economically Significant and 45 were categorized as Other Significant. [See Figure 5]

**Figure 5 – HHS Withdrawn Rules on Unified Agenda (2000 – 2017)<sup>43</sup>**



Among agencies within HHS, the Food and Drug Administration (FDA) had the most withdrawn rulemakings, 26. Five of these were categorized as Economically Significant.

The FDA was followed by the Health Resources and Services Administration (HRSA) and Centers for Medicare & Medicaid Services (CMS), which accounted for 14 and 10 withdrawn rulemakings, respectively.

**Table 2 – HHS Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

HHS Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA	Rulemakings with a Statutory Deadline
Food and Drug Administration (FDA)	26	2012	5
Health Resources and Services Administration (HRSA)	14	2011	1
Centers for Medicare & Medicaid Services (CMS)	10	2013	4
Administration for Children and Families (ACF)	5	2011	
Centers for Disease Control and Prevention (CDC)	4	2009	1
Substance Abuse and Mental Health Services Administration (SAMHSA)	3	2010	2
Office of the Secretary (OS)	2	2014	
National Institutes of Health (NIH)	2	2015	
Indian Health Service (HIS)	2	2010	
<b>Total</b>	<b>68</b>	<b>2012</b>	<b>13</b>

<sup>43</sup> From 1995 to 1999 no more than 23 HHS rulemakings were withdrawn on a given agenda.

### Summary of Notable Withdrawn HHS Rulemakings

**Food and Drug Administration (FDA)** – The FDA withdrew at least seven rulemakings that related to tobacco or smokeless tobacco.<sup>44</sup>

Altria – the entity that owns cigarette manufacturer Phillip Morris and the U.S. Smokeless Tobacco Company<sup>45</sup> – reported close to \$5 million in lobbying expenditures in just the first half of 2017.<sup>46</sup> Its lobbying expenditures were in part related to lobbying on the regulation of tobacco products.<sup>47</sup> Altria reported lobbying the U.S. House of Representatives, the U.S. Senate, HHS, and the Office of the Vice President of the United States.<sup>48</sup>

Vice President Mike Pence has been a very reliable ally to the tobacco industry. He once wrote: “Smoking doesn’t kill. In fact, two out of every three smokers doesn’t die from a smoking-related illness,”<sup>49</sup> according to recent investigative report by *The New Yorker’s* Jane Mayer. Pence believed “big government disguised as do-gooder, healthcare rhetoric” was a bigger problem than smoking, according to Mayer.

Altria also donated \$500,000 to President Trump’s inauguration fund, according to data compiled by the Center for Responsive Politics.<sup>50</sup> In total, the tobacco industry donated at least \$1.5 million to the Trump inauguration fund, according to *The Guardian*.<sup>51</sup>

Here is a summary of some of the withdrawn FDA rulemakings:

- One Economically Significant rulemaking, proposed to regulate the manufacturing, packing, and storage of tobacco products, was withdrawn in the Advance Notice of Proposed Rulemaking stage.<sup>52</sup>
- Separately, an Advance Notice of Proposed Rulemaking to regulate the “non-face-to-face” advertising, promotion and marketing of tobacco products was listed in the Spring 2017 Unified Agenda (published in July) as scheduled to be withdrawn on Aug. 1, 2017.<sup>53</sup> Since publishing the Advance Notice of Proposed Rulemaking in 2011, the Obama administration had left it out of every subsequent Unified Agenda.

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<sup>44</sup> See seven HHS/FDA rulemakings, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gab7sc>, <http://bit.ly/2i1vKaI>, <http://bit.ly/2gusEbH>, <http://bit.ly/2gMYqAY>, <http://bit.ly/2v5tQYV>, <http://bit.ly/2xv2NLR> and <http://bit.ly/2y9xzIW>.

<sup>45</sup> See <http://www.altria.com/Pages/default.aspx>

<sup>46</sup> See <https://soprweb.senate.gov/index.cfm?event=selectFields&reset=1> Search “Altria.”

<sup>47</sup> ALTRIA CLIENT SERVICES LLC, LOBBYING REPORT, THE UNITED STATES SENATE LOBBYING DISCLOSURE ACT DATABASE (QUARTER 1 & 2), <http://bit.ly/2hLprEz> and <http://bit.ly/2yvepv6>.

<sup>48</sup> *Id.*

<sup>49</sup> Jane Mayer, *The Danger of President Pence*, THE NEW YORKER (Oct. 23, 2017), <http://bit.ly/2hNoCLg>.

<sup>50</sup> Alex Baumgart, *Trump 2017 Inauguration Contributions*, THE CENTER FOR RESPONSIVE POLITICS, <http://bit.ly/2gukkvM>.

<sup>51</sup> Jessica Glenza, *Tobacco companies tighten hold on Washington under Trump*, THE GUARDIAN (July 13, 2017), <http://bit.ly/2yBihfH>.

<sup>52</sup> HHS/FDA, *Requirements for Tobacco Product Manufacturing Practice*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i1vKaI>.

<sup>53</sup> HHS/FDA, *Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gusEbH>.

- The FDA also withdrew a rulemaking requiring prescription drug labeling information intended for patients to be presented in a “clear and concise” manner so patients can “safely and effectively” take their drugs.<sup>54</sup>
- Another withdrawn rulemaking was proposed to “better protect the rights, safety, and welfare of subjects [enrolled in clinical trials] and help ensure the integrity of clinical trial data.”<sup>55</sup>

**Centers for Medicare & Medicaid Services (CMS)** – CMS withdrew a rulemaking aimed to ensure same-sex spouses are “afforded equal rights in Medicare participating facilities.”<sup>56</sup> The rulemaking was proposed in response to the landmark Supreme Court decision in *United States v. Windsor*,<sup>57</sup> which found the federal law banning gay marriage – known as the Defense of Marriage Act (DOMA) – to be unconstitutional.

**Substance Abuse and Mental Health Services Administration (SAMHSA)** – There were three SAMHSA rulemakings withdrawn, all of which were categorized as Other Significant.

- A rulemaking clarifying how a “tobacco product” should be defined in determinations on grants was withdrawn.<sup>58</sup> Current rules prohibit the HHS secretary from providing substance abuse prevention and treatment block grants to states that do not have a law prohibiting the sale of tobacco products to individuals under the age of 18.<sup>59</sup>
- Another withdrawn rulemaking aimed to increase access to the drugs buprenorphine and buprenorphine-naloxone combination, which are used to treat opioid addiction. The rulemaking would have allowed nurse practitioners and physicians assistants to prescribe the drugs to more patients.<sup>60</sup> Currently, nurse practitioners and physicians assistants can prescribe the drug to only 30 patients (Physicians are allowed to prescribe the drug to up to 275 patients). The proposed rulemaking would have increased the number of patients to 100.

Former HHS Secretary Tom Price has been critical of the use of drugs like buprenorphine in the past: “I think what I know about health care is that what’s right for one person isn’t necessarily right for another person, **but I do know that if we just simply substitute**

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<sup>54</sup> HHS/FDA, *Patient Medication Information*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yeS4nl>.

<sup>55</sup> HHS/FDA, *Responsibilities for the Initiation and Conduct of Clinical Investigations*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2ikapt3>.

<sup>56</sup> HHS/CMS, *Revisions to Patient’s Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yDIA7k>.

<sup>57</sup> *Id.*

<sup>58</sup> HHS/SAMHSA, *Tobacco Regulation for Substance Abuse Prevention and Treatment Block Grants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2ijzp3X>.

<sup>59</sup> *Id.*

<sup>60</sup> HHS/SAMHSA, *Medication Assisted Treatment for Opioid Use Disorders--Nurse Practitioners and Physician Assistants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zvYa0D>.

**buprenorphine or methadone or some other opioid-type medication for the opioid addiction, then we haven't moved the dial much.”<sup>61</sup> (Emphasis added)**

The Obama administration had estimated an NPRM would be published in July 2017.<sup>62</sup> Instead, the Trump administration terminated the rulemaking on Aug. 1, 2017.<sup>63</sup>

- The third rulemaking was an inactive rulemaking – meaning it has been years since it appeared on the Unified Agenda – that dealt with rules governing the use of “seclusion and restraint” procedures in certain children and youth facilities. The rule would have required states to develop policies and procedures to monitor residential children and required youth facilities to ensure they had adequate staffing and training.<sup>64</sup>

**Health Resources and Services Administration (HRSA)** – The Trump administration withdrew 14 HRSA rulemakings, seven of which were categorized as Other Significant.

The administration withdrew the NPRM for a rule “that clarifies that peripheral blood stem cells are included in the definition of bone marrow,” related to the National Organ Transplantation Act of 1984,<sup>65</sup> which prohibits the sale of organs, including bone marrow. A Notice of Proposed Rulemaking was published in 2013, and the Obama administration anticipated a Final rule would be published in November 2016, a month before the rule’s statutory deadline of Dec. 18, 2016. The Obama administration missed that deadline.<sup>66</sup> The rulemaking was proposed by the Obama Administration because it believed if the rulemaking was not completed, compensation for peripheral blood stem cells would become more common, and it believed paying donors could “adversely affect the safety of donors who may proceed with donation even when they have concerns about the risk.”<sup>67</sup>

**Indian Health Service (IHS)** – The administration withdrew two IHS rulemakings, both of which were categorized as Other Significant. One rulemaking related to the confidentiality of medical records<sup>68</sup> and the other was proposed “to establish standards for the planning, design, construction,

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<sup>61</sup> Miriam Valverde, *What HHS Secretary Tom Price Said About Opioid Addiction Treatment*, POLITIFACT (May 26, 2017), <http://bit.ly/2l2ymWY>.

<sup>62</sup> HHS/SAMHSA, *Medication Assisted Treatment for Opioid Use Disorders--Nurse Practitioners and Physician Assistants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2gwrolt>.

<sup>63</sup> HHS/SAMHSA, *Medication Assisted Treatment for Opioid Use Disorders--Nurse Practitioners and Physician Assistants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zvYa0D>.

<sup>64</sup> HHS/SAMHSA, *Requirements Governing the Use of Seclusion and Restraint in Certain Nonmedical Community-Based Facilities for Children and Youth*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yzExs3>.

<sup>65</sup> HHS/HRSA, *Definition of Human Organ Under Section 301 of the National Organ Transplant Act of 1984*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2kXHNXt>.

<sup>66</sup> HHS/HRSA, *Definition of Human Organ Under Section 301 of the National Organ Transplant Act of 1984*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2yoSGXT>.

<sup>67</sup> *Id.*

<sup>68</sup> HHS/IHS, *Confidentiality of Medical Quality Assurance Records*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2hgspEM>.

and operation of health care and sanitation facilities serving Indians” under the Indian Health Care Improvement Act.<sup>69</sup>

### **HHS Withdrawn Rulemakings With a Statutory Requirement**

In total, 13 HHS withdrawn rulemakings had an associated statutory deadline. The Unified Agenda indicated in eight of the 13 withdrawn actions that the administration was specifically withdrawing the NPRM or ANPRM on a future date – Aug. 1, 2017 (the Unified Agenda was published in July 2017).

For some of the rulemakings, the statutory requirement called for the final rule to be published a certain amount of time after the publication of the proposed rule. Therefore, by withdrawing the proposed rule, the administration may have voided the statutorily required final rule deadline.

For example, a CMS rulemaking “to ensure that same-sex spouses in legally valid marriages are recognized and afforded equal rights in Medicare participating facilities,”<sup>70</sup> was scheduled to be withdrawn on Aug. 1, 2017.

According to the Spring 2017 Unified Agenda, the rulemaking included a statutory deadline calling for the final rule to be published “within 3-years of a proposed or interim final rule.”<sup>71</sup> The proposed rule was published by the Obama administration on Dec. 12, 2014 – triggering a deadline to publish the final rule by Dec. 12, 2017.<sup>72</sup> The Obama administration had already missed that deadline. By withdrawing the rule, the Trump administration apparently would negate the deadline altogether.

All HHS withdrawn rulemakings with a statutory requirement are listed in Appendix II. [See Table 11]

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<sup>69</sup> HHS/IHS, *Standards for the Planning, Design, Construction, and Operation of Health Care and Sanitation Facilities*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zA88Bw>.

<sup>70</sup> HHS/CMS, *Revisions to Patient's Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yDIA7k>.

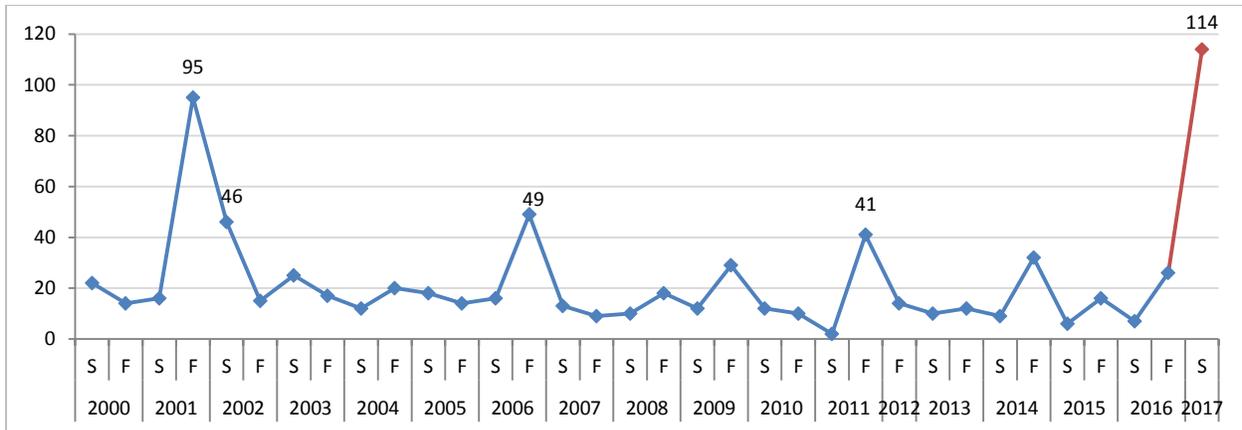
<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

### Department of the Interior (DOI) Withdrawn Rulemakings

With 114 withdrawn rulemakings, the Department of the Interior accounted for the most withdrawn rulemakings listed in the Spring 2017 Unified Agenda. The next closest was the 68 rulemakings withdrawn by the Department of Health and Human Services. In historical context, there were more DOI rules listed as withdrawn on the Spring 2017 unified Agenda than in any previous agenda since 2000. [See Figure 6] None of the 114 rulemakings were categorized as Economically Significant, though 14 were categorized as Other Significant.

**Figure 6 – DOI Withdrawn Rules on Unified Agenda (2000 – 2017)<sup>73</sup>**



Among sub agencies of the Interior Department, the U.S. Fish and Wildlife Service accounted for by far the most of the DOI's withdrawn rulemakings. [See Table 3]

**Table 3 – DOI Withdrawn Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

DOI Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA	Rulemakings with a Statutory Deadline <sup>74</sup>
U.S. Fish and Wildlife Service (FWS)	53	2014	10
National Park Service (NPS)	14	2013	
Bureau of Ocean Energy Management (BOEM)	14	2013	
Bureau of Safety and Environmental Enforcement (BSEE)	11	2014	
Office of Surface Mining Reclamation and Enforcement (OSMRE)	6	2012	
Bureau of Indian Affairs (BIA)	4	2014	
Bureau of Land Management (BLM)	4	2011	
Assistant Secretary for Policy, Management and Budget (ASPMB)	3	2014	
Office of Natural Resources Revenue (ONRR)	3	2014	
Office of the Secretary (OS)	2	2014	
<b>Total</b>	<b>114</b>	<b>2013</b>	<b>10</b>

<sup>73</sup> From 1995 to 1999 no more than 41 DOI rulemakings were withdrawn on a given agenda.

<sup>74</sup> Two DOI withdrawn rules also had a judicial deadline, See <http://bit.ly/2vzwwRE> and <http://bit.ly/2u8ai5a>.

### *The DOI May Not Have Evaluated the Rulemakings It Withdrew*

Many of the DOI withdrawn rulemakings included this caveat: “The Department may determine that certain rules listed as withdrawn under this agenda are appropriate for promulgation. If that determination is made, such rules will be included in a succeeding semiannual agenda under a new RIN.”<sup>75</sup> Or, similarly, DOI wrote “this agenda item is being withdrawn at the present time to allow the Department to assess further the timing for the action. Following that assessment, this rule will, if appropriate, be included in a succeeding semiannual regulatory agenda under a new RIN.”<sup>76</sup>

Language like this appears in the abstract description section of 107 of the 114 withdrawn DOI rulemakings.

It leads one to believe that the administration may have prioritized withdrawing a large number of rulemakings instead of assessing the rulemakings on their merits.

In fact, the description of two rulemakings listed as withdrawn in the spring 2017 Unified Agenda indicate that the rulemaking will be included on the ensuing agenda after an assessment is completed: “Following that assessment, this rule will be included in a succeeding semiannual regulatory agenda under a new RIN.”<sup>77</sup>

### *Summary of Notable Withdrawn DOI Rulemakings*

**United States Fish and Wildlife Service (FWS)** – About 40 United States Fish and Wildlife Service rulemakings were related to the protection of endangered species or critical habitats.

These included 15 different bat species,<sup>78</sup> 23 Guam and Northern Mariana Island species,<sup>79</sup> an endangered bumble bee species,<sup>80</sup> and multiple plant species in the Florida everglades.<sup>81</sup> For the vast majority of withdrawn rulemakings, the reason given was “to allow the Department to assess further the timing for the action.”<sup>82</sup>

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<sup>75</sup> DOI/NPS, *Prohibition of Falconry Within the National Park System*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xPnzW4>.

<sup>76</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Western Glacier Stonefly and Meltwater Lednian Stonefly*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2hjRZc9>.

<sup>77</sup> DOI/FWS, *Endangered and Threatened Wildlife; Listing Determination for the Scarlet Macaw*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2Ai3p3U> and DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Four Plants in the Florida Keys (Big Pine Partridge Pea et al.)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yDoIAr>.

<sup>78</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Listing Determinations for 15 Bat Species*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gsVfI>.

<sup>79</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for 23 Guam and Northern Mariana Islands Species*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zdABcP>.

<sup>80</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Rusty Patched Bumble Bee*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gsm16Y>.

<sup>81</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Four Everglades Plants*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xuumo1>.

<sup>82</sup> DOI/FWS, *Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Slickspot Peppergrass*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gt8wqr>.

**National Park Service (NPS) –**

- NPS withdrew a rulemaking that would have prohibited falconry within the National Park System. The rule would have clarified that falconry – using birds of prey to hunt other animals – does not fall within the legally permitted activities of “hunting” or “trapping under NPS policy.”<sup>83</sup> The Obama administration had previously estimated a proposed rule would be published in March 2017.<sup>84</sup>
- A rulemaking that would clarify what a “service animal” is, and allow service animals into national parks in certain circumstances, was withdrawn.<sup>85</sup> The rulemaking was proposed to ensure compliance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.<sup>86</sup>
- A rulemaking that would have phased out commercial fishing in the Biscayne National Park in Florida was withdrawn.<sup>87</sup> In 2014, NPS developed a management plan to “protect and restore”<sup>88</sup> Biscayne’s “diminishing fisheries resources,”<sup>89</sup> and its coral reef habitats. Brian Carlstrom, the former Superintendent of Biscayne, believed the situation was dire. “We’ve gotta do something,” he reportedly said, “if you take the last fish out, that’s the last fish.”<sup>90</sup>
- A rulemaking allowing park superintendents to ban the use of electronic cigarettes and other electronic nicotine delivery systems (ENDS) in certain park areas was also withdrawn.<sup>91</sup>

**Office of Surface Mining Reclamation and Enforcement (OSMRE) –** Multiple coal-related OSMRE rulemakings were withdrawn.

- One withdrawn rulemaking would have established standards related to the placement of coal combustion residue in mines.<sup>92</sup> This rulemaking began under the George W. Bush administration 2007. Since an Advance Notice of Proposed Rulemaking (ANPRM) was

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<sup>83</sup> DOI/NPS, *Prohibition of Falconry Within the National Park System*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2yxfXpL>.

<sup>84</sup> DOI/NPS, *Prohibition of Falconry Within the National Park System*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2yxfXpL>.

<sup>85</sup> DOI/NPS, *Service Animals in National Parks*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zzzAMt>.

<sup>86</sup> *Id.*

<sup>87</sup> DOI/NPS, *Biscayne National Park--Commercial Fishing*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2hgPguc>.

<sup>88</sup> Biscayne National Park Florida, *Fishery Management Plan Environmental Impact Statement*, NATIONAL PARK SERVICE (November 2014), <http://bit.ly/2z8zkpQ>.

<sup>89</sup> *Id.*

<sup>90</sup> Jenny Staletovich, *New rules, No-Fishing Zone for Biscayne National Park*, MIAMI HERALD (June 4, 2015), <http://hrlld.us/2gRzU1c>.

<sup>91</sup> DOI/NPS, *Generic Provisions, Electronic Cigarettes*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gSptul>.

<sup>92</sup> DOI/OSMRE, *Placement of Coal Combustion Residues in Active and Abandoned Mines*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xSXSnp>.

published in 2007, OSMRE under both Bush and Obama predicted the proposed rule would be published every year, yet it never was.

- Another withdrawn rulemaking would have ensured that coal mining operators are better able to prevent injuries and property damage due to the toxic gases released when blasting occurs in a coal mine.<sup>93</sup> The proposed rule would have defined what the “blast area” was and would have specified toxic gases are a danger associated with coal mine blasting.<sup>94</sup>
- Another withdrawn coal mine-related rulemaking would have ensured that coal mining operations are not indefinitely put on hold in order to delay “reclamation” – the process of rehabilitating the land after the coal has been mined and a mine is ready to be closed.<sup>95</sup> The rulemaking was also intended to ensure safety and environmental protections were in place during reclamation.<sup>96</sup>
- One withdrawn<sup>97</sup> dam safety-related rulemaking would have required “emergency action plans and after-action reports.”<sup>98</sup> The rulemaking was originally proposed after the Office of the Inspector General recommended the changes.<sup>99</sup>

#### **Bureau of Safety and Environmental Enforcement (BSEE) –**

- A withdrawn<sup>100</sup> BSEE rulemaking sought “to improve safety, emergency preparedness, and environmental responsibility, and to assure appropriate development and conservation of the offshore oil and natural gas resources.”<sup>101</sup> Generally speaking, the rulemaking was proposed to improve risk assessment, produce a more efficient permitting process, and improve safety in offshore drilling.
- Another withdrawn<sup>102</sup> rulemaking aimed to improve safety and effectiveness of systems serving as a “barrier”<sup>103</sup> to the release hydrocarbons. Hydrocarbons – the compound made up of hydrogen and carbon – are found in natural gas, coal, and crude oil.

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<sup>93</sup> DOI/OSMRE, *Toxic Gases and Blasting*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2yuGEfO>.

<sup>94</sup> *Id.*

<sup>95</sup> DOI/OSMRE, *Temporary Cessation of Operations*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2znDbfF>.

<sup>96</sup> DOI/OSMRE, *Temporary Cessation of Operations*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xRQ9G9>.

<sup>97</sup> DOI/OSMRE, *Dam Safety*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zDuYFg>.

<sup>98</sup> DOI/OSMRE, *Dam Safety*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2gvZrjH>.

<sup>99</sup> DOI/OSMRE, *Dam Safety*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2gvZrjH>.

<sup>100</sup> DOI/BSEE, *Improvements in Incident Reporting, Risk-Based Inspections, and Leading and Lagging Indicators*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yzyiTC>.

<sup>101</sup> DOI/BSEE, *Improvements in Incident Reporting, Risk-Based Inspections, and Leading and Lagging Indicators*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2hOK6Yi>.

<sup>102</sup> DOI/BSEE, *Safety and Environmental Management*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yxMhaz>.

<sup>103</sup> DOI/BSEE, *Safety and Environmental Management*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016) <http://bit.ly/2yvy1Oq>.

### **DOI Withdrawn Rulemakings With A Statutory Requirement**

In total, 10 DOI withdrawn rulemakings had an associated statutory requirement and each of these were U.S. Fish and Wildlife Service rulemakings. The rulemakings were withdrawn on the same day – April 12, 2017.

On average, the 10 U.S. Fish and Wildlife Service withdrawn rulemakings with a statutory requirement first appeared on a Unified Agenda in 2013. On the previous Unified Agenda, Fall 2016, five of the rulemakings were listed as in the “Final Rule Stage,” and five were listed as in the “Proposed Rule Stage.”

Seven of the 10 U.S. Fish and Wildlife Service withdrawn rulemakings had an associated 2017 statutory deadline (the remaining three rulemakings had a statutory deadline of prior to 2017 that the Obama administration missed).<sup>104</sup>

All DOI withdrawn Rulemakings With A Statutory Requirement are listed in Appendix II. [See Table 10]

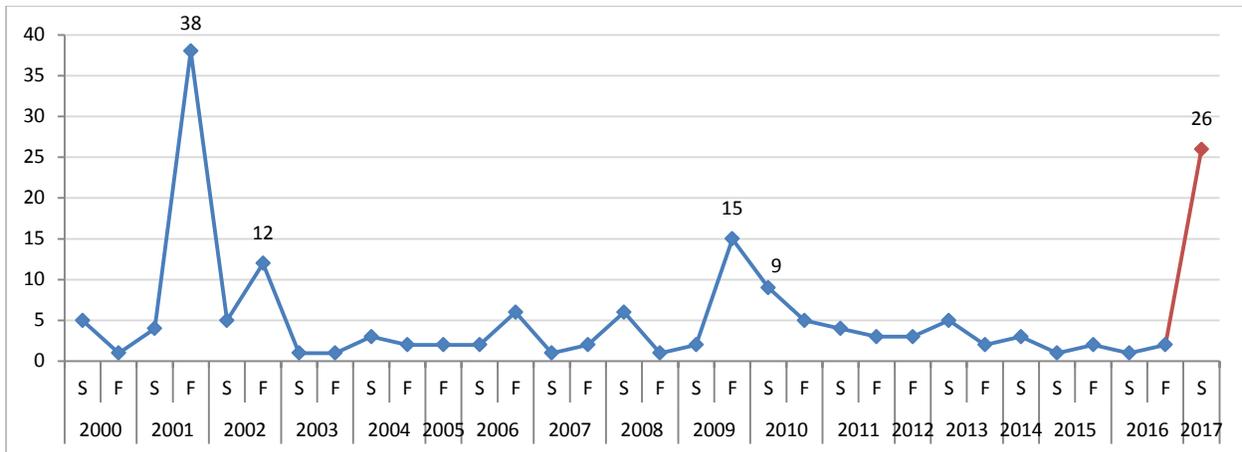
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<sup>104</sup> See three DOI rulemakings, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2hyUKCa>, <http://bit.ly/2yqBHET> and <http://bit.ly/2yxMFrI>.

### Department of Labor (DOL) Withdrawn Rulemakings

The Trump administration listed 26 Department of Labor (DOL) rulemakings as withdrawn on the Spring 2017 Unified Agenda. [See Figure 7]

**Figure 7 – DOL Withdrawn Rules on Unified Agenda (2000 – 2017)<sup>105</sup>**



Four of the withdrawn DOL rulemakings were categorized as Economically Significant and 17 were categorized as Other Significant. DOL’s Occupational Safety and Health Administration (OSHA), in charge of protecting the nation’s workers, was responsible for the most DOL withdrawn rulemakings – 12. [See Table 6]

**Table 4 – DOL Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

DOL Sub-Agency	Total Number of Rulemakings	Average First Year Appearance on a UA
Occupational Safety and Health Administration (OSHA)	12	2013
Wage and Hour Division (WHD)	4	2013
Employee Benefits Security Administration (EBSA)	3	2011
Mine Safety and Health Administration (MSHA)	3	2012
Office of Federal Contract Compliance Programs (OFCCP)	2	2010
Office of Labor-Management Standards (OLMS)	1	2010
Office of the Assistant Secretary for Veterans' Employment and Training (ASVET)	1	2012
<b>Total</b>	<b>26</b>	<b>2012</b>

#### *Summary of Notable Withdrawn DOL Rulemakings*

**Occupational Safety and Health Administration (OSHA)** – Four of OSHA’s withdrawn rulemakings were Economically Significant. According to OSHA, it withdrew all four rulemakings “due to resource constraints and other priorities.”<sup>106</sup>

<sup>105</sup> From 1995 to 1999 no more than 5 DOL rulemakings were withdrawn on a given agenda.

<sup>106</sup> DOL/OSHA, *Combustible Dust*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i9j7uk>.

- One withdrawn rulemaking was proposed to help prevent workplace vehicle backover injuries and fatalities.<sup>107</sup> The rulemaking began with a 2012 request for information (RFI) regarding the prevention of backover injuries, and information about the hazards associated with “reinforcing concrete operations” in the construction industry.<sup>108</sup> The Bureau of Labor Statistics reported that in 2011, 75 workers were killed at work after being backed over, while many others sustained “serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries.”<sup>109</sup> OSHA found that workers “struck-by” injuries and “caught-between” injuries are two of the four leading causes of workplace fatalities.<sup>110</sup> As such, OSHA’s rulemaking was proposed to develop standards to address workplace hazards associated with backovers.<sup>111</sup>
- Another withdrawn rulemaking was proposed to require “employers to implement an Injury and Illness Prevention Program.”<sup>112</sup> According to OSHA, creating an Injury and Illness Prevention Program is “a proactive process to help employers find and fix workplace hazards before workers are hurt.”<sup>113</sup> Workplaces that have adopted these programs have experienced “dramatic decreases in workplace injuries,” reduced turnover, and have saved money, while enjoying improved productivity, according to OSHA.<sup>114</sup> The proposed rule would have built on the voluntary OSHA programs many workplaces follow today and required them to institute such programs.
- Since 2009, OSHA had been “developing a standard that will comprehensively address the fire and explosion hazards of combustible dust.”<sup>115</sup> The Trump administration withdrew the rulemaking in March 2017.<sup>116</sup> When it began the rulemaking, OSHA estimated 16 million workers were employed in 426,000 establishments “in industries for which combustible dust fires or explosions have occurred.”<sup>117</sup>

The U.S. Chemical Safety and Hazard Investigation Board (CSB), the agency that investigates chemical accidents,<sup>118</sup> concluded in a 2006 report, among other things, that there was a lack of awareness of combustible dust hazards by industry and safety officials and that “state

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<sup>107</sup> DOL/OSHA, *Preventing Backover Injuries and Fatalities*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2zlyHqN>.

<sup>108</sup> DOL/OSHA, *Preventing Backover Injuries and Fatalities*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Spring 2014), <http://bit.ly/2xU0g8M>.

<sup>109</sup> *Id.*

<sup>110</sup> DOL/OSHA, *Preventing Backover Injuries and Fatalities*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Spring 2016), <http://bit.ly/2yCKrXL>.

<sup>111</sup> *Id.*

<sup>112</sup> DOL/OSHA, *Injury and Illness Prevention Program*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xDyqlV>.

<sup>113</sup> Injury and Illness Prevention Programs White Paper, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Jan. 2012), <http://bit.ly/2gxFl8Y>.

<sup>114</sup> *Id.*

<sup>115</sup> Proposed Rule, *Combustible Dust*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Oct. 21, 2009), <http://bit.ly/2goYWEEx>.

<sup>116</sup> DOL/OSHA, *Combustible Dust*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i9j7uk>.

<sup>117</sup> Proposed Rule, *Combustible Dust*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Oct. 21, 2009), <http://bit.ly/2goYWEEx>.

<sup>118</sup> *Memorandum of Understanding*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Nov. 24, 1998), <http://bit.ly/2gV4zuE>.

and local fire codes were ineffective” in reducing combustible dust incidents.<sup>119</sup> CSB recommended the issuance of standards “designed to prevent combustible dust fires and explosions in general industry.”<sup>120</sup>

In 2008, a combustible dust fire explosion at the Imperial Sugar Company in Port Wentworth, Ga., which killed 14 workers and injured 38 others, prompted renewed calls for action.<sup>121</sup> According to CSB, the explosion was caused by “massive accumulations of combustible sugar dust”<sup>122</sup> – the exact type of incident the recently withdrawn rulemaking was proposed to prevent.

- A fourth withdrawn OSHA sought to limit employees’ exposure to styrene.<sup>123</sup> Styrene is a chemical used in the manufacturing of plastic and rubber, and its resin is used to make packaging, insulation, tires and disposable cups.<sup>124</sup>

The HHS National Toxicology Program (NTP) has found styrene to be “reasonably anticipated to be a human carcinogen.”<sup>125</sup> The EPA lists styrene to be a Hazardous Air Pollutant (HAP),<sup>126</sup> and multiple other state and local agencies have issued warnings about the toxic chemical.<sup>127</sup>

#### **Wage and Hour Division (WHD) –**

- “Rosa’s Law” was passed in 2010 to ensure that the terms “mental retardation” and “mentally retarded” would be replaced with “intellectual disability” in federal health, education and labor policy.<sup>128</sup> In 2016, WHD proposed a rulemaking that would “carry out the spirit” of Rosa’s Law and remove all references to “mentally retarded” in its programs.<sup>129</sup> The Trump administration withdrew the rulemaking in March 2017 due to “agency priorities.”<sup>130</sup>

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<sup>119</sup> Proposed Rule, *Combustible Dust*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Oct. 21, 2009), <http://bit.ly/2goYWEEx>.

<sup>120</sup> *Id.*

<sup>121</sup> Investigation Information, *Imperial Sugar Company Dust Explosion and Fire*, UNITED STATE CHEMICAL SAFETY BOARD (Sept. 2009), <http://bit.ly/2xU7mdo>.

<sup>122</sup> *Id.*

<sup>123</sup> DOL/OSHA, *Occupational Exposure to Styrene*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2xDjIX1>.

<sup>124</sup> DOL/OSHA, *Occupational Exposure to Styrene*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xTs5hx>.

<sup>125</sup> National Toxicology Program, *Report on Carcinogens, Fourteenth Edition, Styrene CAS no. 100-42-5*, DEPARTMENT OF HEALTH AND HUMAN SERVICES, (Nov. 3, 2016), <http://bit.ly/2h0RXpc>.

<sup>126</sup> Hazard Recognition, *Styrene*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, <http://bit.ly/2z6MxiZ>.

<sup>127</sup> *Id.*

<sup>128</sup> ROSA’S LAW, S.2781, 111TH CONGRESS (2010), <http://bit.ly/2xG2Dg4>.

<sup>129</sup> DOL/WHD, *Updating Regulations Issued Under Various Wage and Hour Division Statutes Consistent with Rosa’s Law*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2gvWfVm>.

<sup>130</sup> DOL/WHD, *Updating Regulations Issued Under Various Wage and Hour Division Statutes Consistent with Rosa’s Law*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2l3mdRB>.

- Another WHD withdrawn rulemaking<sup>131</sup> was a recordkeeping regulation proposed to ensure employers could “demonstrate compliance with minimum wage, overtime, and child labor requirements.”<sup>132</sup> The proposed rule’s intent was to foster “openness and transparency” and ensure that workers could be more aware of how well their employers were complying with the law.<sup>133</sup>

### Mine Safety and Health Administration (MSHA) –

- On April 5, 2010, 29 miners died in an explosion in the Upper Big Branch coal mine in West Virginia.<sup>134</sup> The mine was controlled by Massey Energy Company. Massey’s CEO, Donald L. Blankenship, was convicted and sentenced to prison for “conspiring to violate federal mine safety standards,” according to *The New York Times*.<sup>135</sup>

A 2011 MSHA investigation found, among other things, that the mine operator failed to follow the approved ventilation plan, that loose coal and dust that exploded should have been removed from the mine, that miners were “told that raising safety concerns would jeopardize their jobs,”<sup>136</sup> and that hazards were not recorded.<sup>137</sup>

In response to the explosion, MSHA began a rulemaking that sought to address the hazards exposed by Upper Big Branch explosion.<sup>138</sup> Regulatory action that would have addressed those hazards was withdrawn in March 2017 by the Trump administration.<sup>139</sup>

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<sup>131</sup> DOL/WHD Right to Know Under the Fair Labor Standards Act, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2gz9bd4>.

<sup>132</sup> Right To Know Under the Fair Labor Standards Act, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (Fall 2010), <http://bit.ly/2yDgWF4>.

<sup>133</sup> *Id.*

<sup>134</sup> Alan Blinder, *Donald Blankenship Sentenced to a Year in Prison in Mine Safety Case*, THE NEW YORK TIMES (April 6, 2016), <http://nyti.ms/2zoWUyvr>.

<sup>135</sup> *Id.*

<sup>136</sup> *Upper Big Branch Mine-South - Fatal Accident Report - Executive Summary*, MINE SAFETY AND HEALTH ADMINISTRATION, <http://bit.ly/2mc0xmp>.

<sup>137</sup> Accident Public Briefing, *Upper Big Branch Mine – South Mine ID: 46-08436 April 5, 2010*, MINE SAFETY AND HEALTH ADMINISTRATION (June 29, 2011), <http://bit.ly/2iiOQps>.

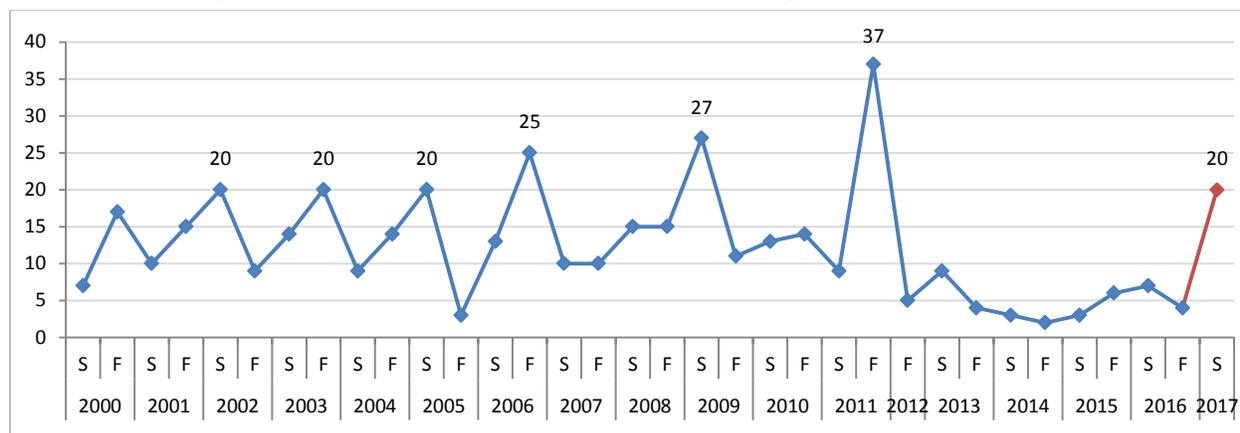
<sup>138</sup> DOL/MSHA, *Request for Information to Improve the Health and Safety of Miners and to Prevent Accidents in Underground Coal Mines*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yE2bj0>.

<sup>139</sup> *Id.*

### Environmental Protection Agency (EPA) Withdrawn Rulemakings

The Trump administration listed 20 Environmental Protection Agency (EPA) rulemakings as withdrawn in the Spring 2017 Unified Agenda. [See Figure 8]

**Figure 8 – EPA Withdrawn Rules on Unified Agenda (2000 – 2017)<sup>140</sup>**



None of withdrawn EPA rulemakings were categorized as Economically Significant. Seven were categorized as Other Significant. EPA’s Office of Chemical Safety and Pollution Prevention (OCSP) was responsible for the most withdrawn rulemakings – 12. [See Table 7]

**Table 5 – EPA Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

EPA Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
Office of Chemical Safety and Pollution Prevention (OCSP)	12	2009
Office of Water (OW)	4	2011
Office of Air and Radiation (OAR)	2	2013
Regional Office Denver (RODENVER)	1	2016
Office of Environmental Information (OEI)	1	2014
<b>Total</b>	<b>20</b>	<b>2010</b>

#### *Summary of Notable Withdrawn EPA Rulemakings*

**Office of Chemical Safety and Pollution Prevention (OCSP)** – Two withdrawn OCSP rulemakings categorized as Other Significant were related to Toxic Substances Control Act (TSCA). Under the TSCA, the EPA “evaluates potential risks from new and existing chemicals and finds ways to prevent or reduce pollution before it gets into the environment.”<sup>141</sup>

<sup>140</sup> From 1995 to 1999 no more than 22 EPA rulemakings were withdrawn on a given agenda. 22 EPA rulemakings were withdrawn on the Spring 1997 agenda.

<sup>141</sup> *Chemicals Under the Toxic Substances Control Act (TSCA)*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, <http://bit.ly/2yj0A5T>.

- One rulemaking was proposed to require manufactures of “multiwall carbon nanotube,” “certain clays,” “alumina,” and “spray-applied nanomaterials,” to collect data on the health and environmental effects various chemicals.<sup>142</sup>
- The second withdrawn rulemaking<sup>143</sup> was proposed to “establish regulations relating to claims for confidential business information (CBI)” submitted under TSCA.<sup>144</sup> According to the EPA, the rulemaking would have increased “transparency and the availability of public health and environmental effects information on chemicals in commerce.”<sup>145</sup>

### Regional Office Denver (RODENVER) –

- The EPA’s Denver Regional Office withdrew one significant rulemaking related to oil and natural gas drilling in the Uintah and Ouray Indian Reservations in Utah. The reason for the rulemaking, according to the EPA, was to “level the playing field.”<sup>146</sup> According to the EPA, the rulemaking was needed to ensure that the air quality in the Uintah and Ouray Indian Reservations is equal to that on non-reservation lands during oil and natural gas drilling. The EPA had previously found that areas within the reservation had “been experiencing wintertime ozone levels that exceed the National Ambient Air Quality Standards.”<sup>147</sup>

In the Fall 2016 agenda, the Obama administration had listed the rulemaking as Economically Significant.<sup>148</sup> When the Trump administration withdrew the rulemaking its priority categorization had been changed to Other Significant.<sup>149</sup>

### Office of Air and Radiation (OAR) –

- A withdrawn OAR rulemaking would have regulated methane emissions from “existing” oil and natural gas resources.<sup>150</sup> This rulemaking was planned as the second step in OAR’s attempt to reduce methane emissions in the oil and gas sector. In 2016, the Obama

<sup>142</sup> EPA/OCSP, *Nanoscale Materials; Test Rule for Certain Nanoscale Materials*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2lcy3lm>.

<sup>143</sup> EPA/OCSP, *CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2y1TRNN>.

<sup>144</sup> EPA/OCSP, *CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Spring 2014), <http://bit.ly/2gz8BbL>.

<sup>145</sup> EPA/OCSP, *CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2y1TRNN>.

<sup>146</sup> EPA/RODENVER, *Federal Implementation Plan for Existing Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2xjPw3P>.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> EPA/RODENVER, *Federal Implementation Plan for Existing Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2h43P6H>.

<sup>150</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i2LflO>.

administration finalized plans to enact methane emission standards from “modified and reconstructed” oil and natural gas operations.<sup>151</sup>

Methane is a “potent” greenhouse gas and is the second most common greenhouse gas emitted in the United States, according to the EPA.<sup>152</sup> Therefore, reducing methane emissions, which occur during oil, coal, natural gas, and livestock production,<sup>153</sup> is an effective tool in combating climate change. While methane makes up a much smaller percentage of U.S. greenhouse gas emission than carbon dioxide,<sup>154</sup> each ton of emitted methane gas is significantly more harmful to the climate than an equivalent amount of carbon dioxide.<sup>155</sup>

For the new – now withdrawn – methane related rulemaking, OAR had begun the process of requiring companies to provide information to OAR regarding their existing oil and natural gas operations to help with the rulemaking.<sup>156</sup>

In the Fall 2016 agenda, the Obama administration had listed the rulemaking as Economically Significant.<sup>157</sup> When the Trump administration withdrew the rulemaking, its priority categorization had been changed to Other Significant.<sup>158</sup>

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<sup>151</sup> News Releases, *EPA Releases First-Ever Standards to Cut Methane Emissions from the Oil and Gas Sector*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (May 12, 2016), <http://bit.ly/2hqXmD1>.

<sup>152</sup> *Id.*

<sup>153</sup> Overview of Greenhouse Gases, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, <http://bit.ly/2z1hTFD>.

<sup>154</sup> *Id.*

<sup>155</sup> Understanding Global Warming Potentials, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, <http://bit.ly/2z0bsFz>.

<sup>156</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i2LflO>.

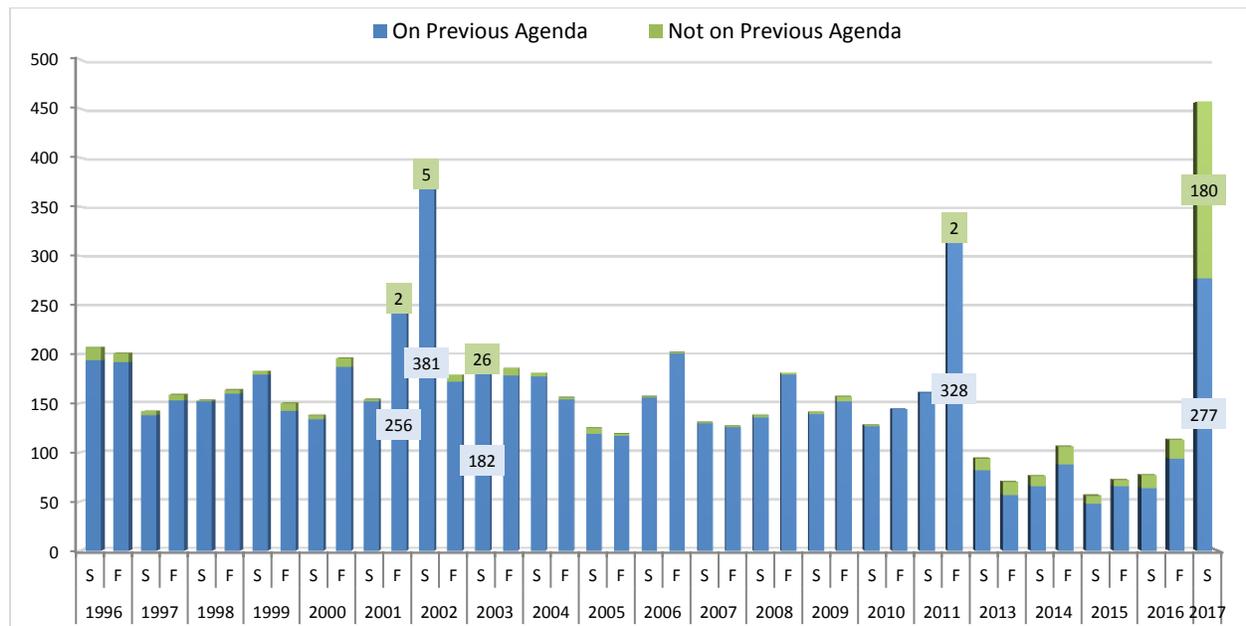
<sup>157</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Fall 2016), <http://bit.ly/2y4mDsc>.

<sup>158</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i2LflO>.

### III. Trump Withdrew Many Rulemakings That Had Been Inactive for Years

It is important to note that the Trump administration took many rulemakings that had not been on the Fall 2016 Unified Agenda, added them to Spring 2017 agenda, and then listed them as withdrawn. Nearly 40 percent of the rulemakings withdrawn by the Trump administration on the Spring 2017 Unified Agenda did not appear on the Fall 2016 agenda. While withdrawing regulations that had not appeared on recent agendas has occurred sporadically over the past two decades, no other Unified Agenda had even close to the number as Spring 2017. [See Figure 9]

**Figure 9 – Withdrawn Rulemakings by Unified Agenda – Spring 1996 Through Spring 2017<sup>159</sup>**



There is a simple explanation for this. From about 2011 through 2016, agencies internally categorized rulemakings that they did not intend to pursue in the coming year as “pending,” and the agencies did not include them on the Unified Agenda. According to *Bloomberg*, agencies were hesitant to completely eliminate the rulemakings because they would have to start over completely if they decided to take up that rulemaking again.<sup>160</sup> Prior to 2011, there was no “pending” list.

The Obama administration did not make its pending list public. The Trump administration has taken the rules that were previously on the pending list and either withdrawn them or added them to an inactive list that is published separate from the Unified Agenda.

<sup>159</sup> The Fall 1995 and Fall 2012 Agendas were excluded, as their previous agenda was with not available for download (Spring 1995) or did not exist (Spring 2012).

<sup>160</sup> Cheryl Bolen, *From the Old and Cold Files: Obama's 'Secret' List*, BLOOMBERG BNA (July 20, 2017), <http://bit.ly/2lyCiil>.

When the administration released its Spring 2017 agenda, it stated that agencies “withdrew 469 actions proposed in the Fall 2016 Agenda.”<sup>161</sup> This was misleading at best. The administration appears to be considering the 180 withdrawn rulemakings formerly on the Obama’s administration’s “pending” list as “proposed in the Fall 2016 Agenda.” The reality is none of the 180 rulemakings appeared on the Fall 2016 agenda. Further, the vast majority of the 180 rulemakings had not appeared on an agenda in years.

In fact, 42 percent of the 180 rulemakings last appeared on a Unified Agenda in 2011. More than 80 percent of the rulemakings have not appeared on an agenda since 2014. [See Table 6]

**Table 6 – Last Agenda Appearance of 180 Rulemakings**

Last Appearance on Unified Agenda	Number of Rulemakings	Percent of 180
2011	76	42%
2012	20	11%
2013	26	15%
2014	25	14%
2015	13	7%
2016 (Spring)	13	7%
2017 <sup>162</sup>	7	4%
<b>Total</b>	<b>180</b>	<b>100%</b>

Most of the rulemakings were far from close to being finished. In fact, 80 percent of the rulemakings were in the prerule stage, proposed rule stage, or listed as a long-term action on the last Unified Agenda on which they were listed. [See Table 7]

**Table 7 – Rule Stage Listed on the Last Agenda Appearance of 180 Rulemakings**

Last Appearance on Unified Agenda Rule Stage	Number of Rulemakings	Percent of 180
Proposed Rule Stage	88	49%
Long-Term Actions	52	29%
Final Rule Stage	29	16%
Prerule Stage	4	2%
None <sup>163</sup>	7	4%
<b>Total</b>	<b>180</b>	<b>100%</b>

These rulemakings were removed from the Unified Agenda, but there was no work being done on them. As *Bloomberg* reporter Cheryl Bolen noted, they were “old and cold.”<sup>164</sup>

<sup>161</sup> *Current Unified Agenda of Regulatory and Deregulatory Actions*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <https://www.reginfo.gov/public/do/eAgendaMain>.

<sup>162</sup> A small number of rules that were withdrawn first appeared on the Spring 2017 Unified Agenda.

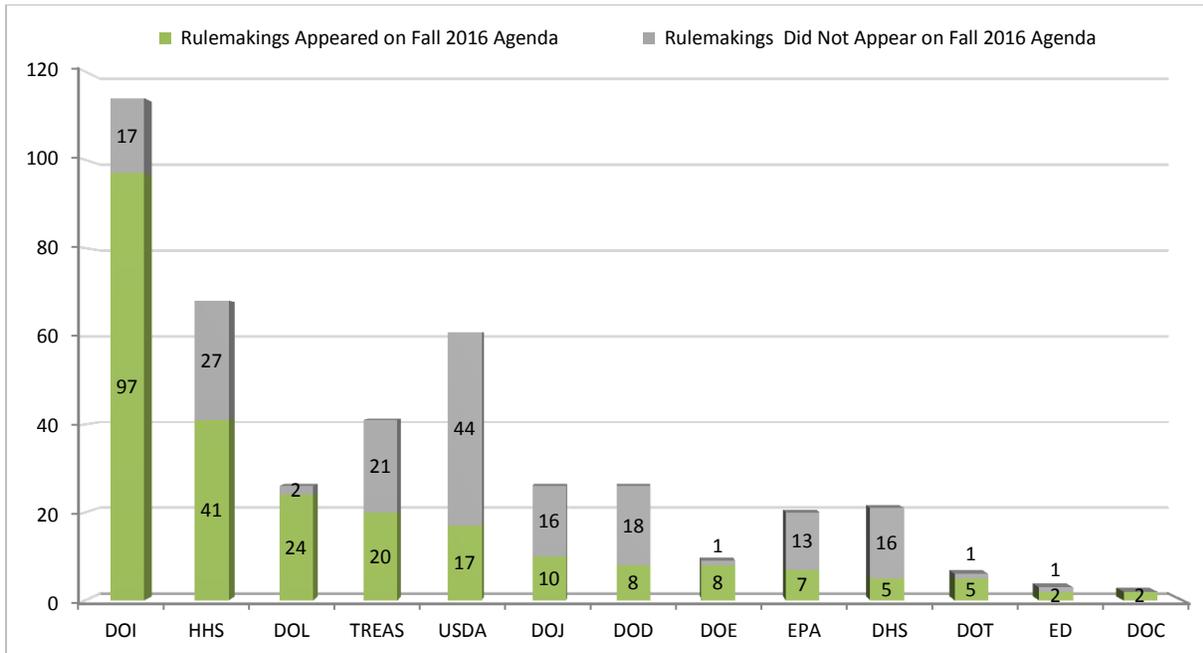
<sup>163</sup> Withdrawn rules new the Spring 2017 agenda will have no previous rule stage.

<sup>164</sup> Cheryl Bolen, *From the Old and Cold Files: Obama’s ‘Secret’ List*, BLOOMBERG BNA (July 20, 2017), <http://bit.ly/2lyCiil>.

### Agency Withdrawn Rulemakings Adjusted for Formerly Pending Rulemakings

Formerly pending rulemakings account for more than half of all the rulemakings withdrawn by five agencies: DHS, USDA, DOD, EPA, DOJ and Treasury. [See Figure 10]

**Figure 10 – Agency Withdrawn Rulemakings on Spring 2017 Unified Agenda: Rulemakings Listed on Fall 2016 Agenda vs. Those Not Listed on the Fall 2016 Agenda**

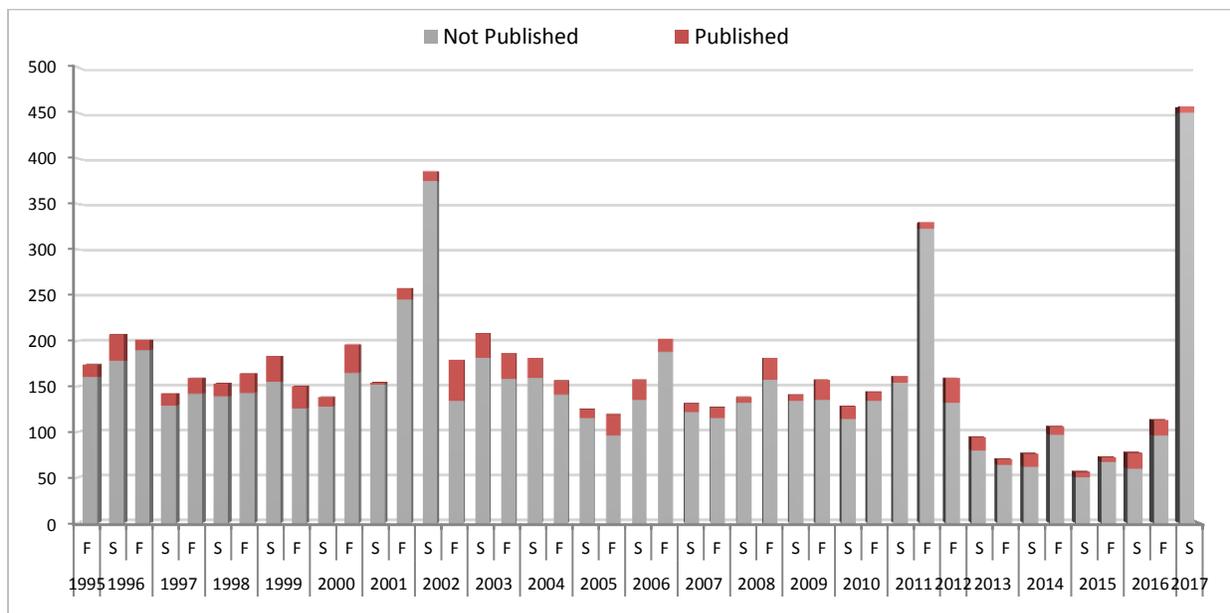


## IV. Withdrawn Rulemakings are Rarely Listed in the Federal Register – Leaving the Public in the Dark

When a rulemaking becomes a proposed or final rule, it is published in the Federal Register.<sup>165</sup> The Federal Register provides the most up-to-date actions related to rulemakings, as it is published daily, while the Unified Agenda is published only twice a year. When agencies withdraw rulemakings, they rarely publish a notice in the Federal Register. When they have published a notice, that vast majority of the time it concerned rulemakings for which a proposed rule had already been published. But even then, such notification is rare. For example, 88 rulemakings withdrawn by the Trump administration previously had an NPRM published. There was a notice of withdrawal in the Federal Register for just five of them.<sup>166</sup>

Further, the vast majority of rulemakings categorized as withdrawn had not reached the point of having a proposed rule published. A notice of withdrawal is almost never published in the Federal Register if a proposed rule has not yet been completed. [See Figure 11]

**Figure 11 – Withdrawn Rulemakings With a Notice of Withdrawal Published in the Federal Register vs. Those not Published**



Therefore, at the time of this writing, it is likely that important rulemakings continue to be withdrawn each passing day. But the public won't know about many of them until the Fall 2017 Unified Agenda is published. And, then, rulemakings will continue to be withdrawn largely unbeknownst to the public until the Spring 2018 Unified Agenda is released.

<sup>165</sup> <https://www.federalregister.gov/>

<sup>166</sup> Another seven rulemakings withdrawn by Trump previously had an interim final rule published in the Federal Register but none had their withdrawal published.

## V. If Past Is Prologue, Trump Will Withdraw Many More Rulemakings on the Next Two Agendas

The most comparable year to which to compare Trump's Spring 2017 agenda would be George W. Bush's Spring 2001 agenda. Both Bush and Trump were Republicans elected to office after a Democrat had served eight years. And, generally speaking, their predecessors, Clinton and Obama, took a more favorable position toward regulation.

The George W. Bush administration listed 154 rulemakings as withdrawn in its first Unified Agenda, Spring 2001. In its following agenda, Fall 2001, the Bush administration listed 258 withdrawn rulemakings – a 69 percent increase from Spring 2001. And in the Spring 2002 agenda, the Bush administration withdrew 386 rulemakings, the most rulemakings of any agenda published during the Bush administration. That was a 151 percent increase from the first Spring 2001 total.

As such, it is reasonable to assume Trump's Fall 2017 and Spring 2018 agendas will have substantially more withdrawn rulemakings than his Spring 2017.

This of course makes sense. A new administration can only do so much prior to the publication of its first Unified Agenda, especially when the transition includes a change in parties. New agency heads need to be nominated and confirmed, which takes time. And in the case presidential transitions of Clinton to Bush, and even more so between Obama and Trump, the new agency head is likely to have very different objectives and beliefs (e.g., Gina McCarthy to Scott Pruitt at the EPA).

If one examines rulemakings listed as withdrawn that also appeared on the previous agenda only, as we did in Figure 9, Trump's 277 withdrawn rulemakings were the third highest of any agenda. That said, the total of 277 withdrawn rulemakings is 125 *more* rulemakings than Bush withdrew on his first agenda (Spring 2001).

The fact that close to 40 percent of the rulemakings withdrawn by the Trump administration had not been active for some time, and had not been particularly far along in the rulemaking process when work stopped, provides interesting context.

But this finding should not be construed as implying the administration is not withdrawing rulemakings at the pace it claims – it is. Previously “old and cold” or not, these are rulemakings that are being withdrawn.

It is reasonable to believe this administration did everything in its power to make the number of withdrawn rulemakings total as high as possible. It remains to be seen if the Trump administration will continue to withdraw the formerly “pending” rulemakings that have not been on the Unified Agenda for years.

Regardless, all signs point to the Trump administration withdrawing rulemakings at an unprecedented pace.

## VI. Conclusion

The administration's fervor for killing off rulemakings will leave workplaces less safe, the environment less clean and may ultimately cost lives.

A 2008 combustible dust fire explosion at the Imperial Sugar Company in Port Wentworth, Ga., killed 14 and injured 38 others.<sup>167</sup> After a government investigation determined the explosion was caused by “massive accumulations of combustible sugar dust,”<sup>168</sup> OSHA moved create a standard on combustible dust. The Trump administration ended the rulemaking.<sup>169</sup>

In 2010, 29 miners died in an explosion in the Upper Big Branch coal mine in West Virginia.<sup>170</sup> The CEO of the company was sentenced to prison for his efforts to elude health and safety rules.<sup>171</sup> The government performed a detailed investigation, pointed out multiple preventable hazards (including, again, combustible dust),<sup>172</sup> and the Mine Safety and Health Administration began a rulemaking to address the hazards. The Trump administration ended the rulemaking.<sup>173</sup>

These are just a few examples of the hundreds of rulemakings stopped by the Trump administration. The withdrawn rulemakings range from the high profile attempt to regulate methane emissions from existing oil and natural gas resources,<sup>174</sup> to a less publicized rulemaking to ensure same-sex spouses are have equal rights in Medicare facilities.<sup>175</sup>

To pump up its numbers, the administration appears to have taken on the strategy of withdrawing first and asking questions later. The Department of the Interior has all but acknowledged doing so.

The administration's leaders have cheered their withdrawn rulemaking totals – and have even taken steps to artificially boost their numbers. That's their prerogative. But if combustible dust causes another factory to blow up, or if another coal mine explosion occurs, those cheers may come back to haunt them.

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<sup>167</sup> Investigation Information, *Imperial Sugar Company Dust Explosion and Fire*, UNITED STATE CHEMICAL SAFETY BOARD (Sept. 2009), <http://bit.ly/2xU7mdo>.

<sup>168</sup> *Id.*

<sup>169</sup> DOL/OSHA, *Combustible Dust*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i9i7uk>.

<sup>170</sup> Alan Blinder, *Donald Blankenship Sentenced to a Year in Prison in Mine Safety Case*, THE NEW YORK TIMES (April 6, 2016), <http://nyti.ms/2zoWUvr>.

<sup>171</sup> *Id.*

<sup>172</sup> Accident Public Briefing, *Upper Big Branch Mine – South Mine ID: 46-08436 April 5, 2010*, MINE SAFETY AND HEALTH ADMINISTRATION (June 29, 2011), <http://bit.ly/2ii00ps>.

<sup>173</sup> DOL/MSHA, *Request for Information to Improve the Health and Safety of Miners and to Prevent Accidents in Underground Coal Mines*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yE2bj0>.

<sup>174</sup> EPA/OAR, *Emission Guidelines for the Existing Oil and Natural Gas Sector*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2i2LflO>.

<sup>175</sup> HHS/CMS, *Revisions to Patient's Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS (Update 2017), <http://bit.ly/2yDIA7k>.

## Appendix I – Methodology

This study is primarily based on data published in the federal government’s Unified Agenda of rulemakings, which has been published twice annually in every year but one since 1996.<sup>176</sup> Each rulemaking in the Unified Agenda is assigned a Regulatory Identification Number (RIN), which is usually unique to that rulemaking.

This study uses data within the Rule Stage and Action fields in the Unified Agenda to determine which rulemakings were withdrawn:

- **Rule Stage** includes Completed Actions, Final Rule, Prerule, Proposed and Long-Term Actions.
- **Actions** are more granular than rule stages. Categories include, but are not limited to, Advance Notice of Proposed Rulemaking (ANPRM), Notice of Proposed Rulemaking (NPRM), Final Action, Final Rule, Interim Final Rule, Deleted, and Withdrawn.

If a rule was listed as in the “Completed Actions” rule stage and its associated action included the word “Withdrawn,” “Withdrawal,” or “Deleted,” it was marked as a withdrawn rule. Doing so, found there to be 475 withdrawn rulemakings on the Spring 2017 agenda. This differs slightly with what the administration has claimed.<sup>177</sup>

We pinpointed exactly which rulemakings the administration included and we did not, and which ones we included that are not listed as one of the administration’s 469. [See Table 9]

**Table 8 – Ten Rulemakings Included or Excluded From Our Analysis**

RIN	Dataset	Reason	Agency	Date of Action	Link to UAs
7100-AE54	On Administration’s List Only	Says “No Further Action Anticipated”	FRS	3/16/2017	<a href="#">Link</a>
3060-AG21	On Administration’s List Only	“WT Docket No. 97-82 Closed” the last action occurred on 11/02/2011.	FCC	11/2/2011	<a href="#">Link</a>
1840-AD24	On Public Citizen’s List Only	“Rescinded” & “Final Rule Withdrawal” (rule was disapproved under the CRA)	ED	3/27/2017 & 5/9/2017	<a href="#">Link</a>
1125-AA31	On Public Citizen’s List Only	“Withdrawn as Moot”	DOJ	6/19/2017	<a href="#">Link</a>
2090-AA39	On Public Citizen’s List Only	“Withdrawal Notice” (Won’t be included as a Trump withdrawal)	EPA	1/9/2017	<a href="#">Link</a>
2126-AB11	On Public Citizen’s List Only	“NPRM; Notice of Withdrawal”	DOT	3/23/2017	<a href="#">Link</a>
1018-BA86	On Public Citizen’s List Only	“Proposed Rule; Withdrawal”	DOI	4/7/2017	<a href="#">Link</a>
2132-AB20	On Public Citizen’s List Only	“Notice of Withdrawal”	DOT	4/17/2017	<a href="#">Link</a>
1515-AD48	On Public Citizen’s List Only	“Withdrawn; Merged With 1515-AD5”	TREAS	5/10/2017	<a href="#">Link</a>
1513-AA00	On Public Citizen’s List Only	“Withdrawn, Merged With 1513-AC16”	TREAS	6/1/2017	<a href="#">Link</a>

<sup>176</sup> <https://www.reginfo.gov/public/jsp/XML/eAgendaXmlReport.jsp>

<sup>177</sup> <https://www.reginfo.gov/public/do/eAgendaMain>

The administration's list includes two rulemakings not included in ours, and our list includes eight rulemakings the administration's list of 469 does not. Therefore, including its two and excluded our eight, would yield the 469 number advertised by the administration.

In order to maintain a consistent methodology, we chose to follow our methodology as we applied it to more than 20 years of Unified Agenda data. Our database includes more than 750,000 records associated with more than 35,000 rulemakings (unique RINs).

To note, from 1995 through 1999, agencies appeared to have used exclusively used the phrase "Deleted at Agency Request" as opposed to withdrawn. Beginning in 2000, agencies began to use "withdrawn" or "withdrawal."

## Appendix II – Rulemakings With Statutory Deadlines Tables

**Table 9 – DOI United States Fish and Wildlife Service Withdrawn Rulemakings  
With a Statutory Requirement**

RIN	Link to Rule	First Appearance on UA	Title of Rule	Type of Withdrawal	Date Withdrawn	Statutory Deadline Action	Statutory Deadline Date
1018-AY38	<a href="#">Link to UAs</a>	Fall 2012	Endangered and Threatened Wildlife; Listing Determination for the Hyacinth Macaw	Final Rule Stage	4/12/2017	Final	11/28/2017
1018-BA79	<a href="#">Link to UAs</a>	Spring 2015	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Black Warrior Waterdog	Proposed Rule Stage	4/12/2017	Final	10/6/2017
1018-BA24	<a href="#">Link to UAs</a>	Fall 2013	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Black Pine Snake	Final Rule Stage	4/12/2017	Final	10/5/2017
1018-BA75	<a href="#">Link to UAs</a>	Spring 2015	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Guadalupe Fescue	Proposed Rule Stage	4/12/2017	Final	9/9/2017
1018-AX16	<a href="#">Link to UAs</a>	Spring 2010	Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Slickspot Peppergrass	Proposed Rule Stage	4/12/2017	Final	8/17/2017
1018-BA95	<a href="#">Link to UAs</a>	Fall 2010	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Elfin-Woods Warbler	Final Rule Stage	4/12/2017	Final	6/22/2017
1018-AY39	<a href="#">Link to UAs</a>	Fall 2015	Endangered and Threatened Wildlife; Listing Determination for the Scarlet Macaw	Final Rule Stage	4/12/2017	Final	4/7/2017
1018-AZ44	<a href="#">Link to UAs</a>	Spring 2013	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Western U.S. Distinct Population Segment of the Yellow-Billed Cuckoo	Proposed Rule Stage	4/12/2017	Final	8/15/2015
1018-AZ42	<a href="#">Link to UAs</a>	Spring 2013	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Spring Pygmy Sunfish	Final Rule Stage	4/12/2017	Final	10/2/2013
1018-BA50	<a href="#">Link to UAs</a>	Fall 2014	Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for the Georgetown and Salado Salamanders	Proposed Rule Stage	4/12/2017	Final	8/22/2013

**Table 10 – HHS Withdrawn Rulemakings With a Statutory Requirement**

RIN	Link to Rule	First Appearance on UA	Sub-Agency	Title of Rule	Other Withdrawn Info	Date Withdrawn	Statutory Deadline Action	Statutory Deadline Date
0938-AR84	<a href="#">Link to UAs</a>	Spring 2013	CMS	Establishment of Special Payment Provisions and Requirements for Qualified Practitioners and Qualified Suppliers of Prosthetics and Custom-Fabricated Orthotics (CMS-6012-F)	NPRM Withdrawn	8/1/2017	Final	1/12/2020
0938-AS85	<a href="#">Link to UAs</a>	Spring 2016	CMS	Part B Drug Payment Model (CMS-1670-F)	NPRM Withdrawn	8/1/2017	Final	3/11/2019
0930-AA25	<a href="#">Link to UAs</a>	Fall 2016	SAMHSA	Medication Assisted Treatment for Opioid Use Disorders--Nurse Practitioners and Physician Assistants	NPRM Withdrawn	8/1/2017	Final	1/22/2018
0938-AS29	<a href="#">Link to UAs</a>	Fall 2014	CMS	Revisions to Patient's Rights Conditions for Participation and Conditions for Coverage (CMS-3302-F)	NPRM Withdrawn	8/1/2017	Final	12/12/2017
0906-AB02	<a href="#">Link to UAs</a>	Fall 2012	HRSA	Definition of Human Organ Under Section 301 of the National Organ Transplant Act of 1984	NPRM Withdrawn	8/1/2017	Final	12/18/2016
0938-AQ85	<a href="#">Link to UAs</a>	Spring 2011	CMS	Administrative Simplification: Certification of Compliance for Health Plans (CMS-0037-P2)	NPRM Withdrawn	8/1/2017	Final	12/31/2013
0910-AG43	<a href="#">Link to UAs</a>	Spring 2010	FDA	Non-Face-to-Face Sale and Distribution of Tobacco Products and Advertising, Promotion, and Marketing of Tobacco Products	ANPRM Withdrawn	8/1/2017	Final	10/1/2011
0910-AG07	<a href="#">Link to UAs</a>	Spring 2008	FDA	Conditional Approval of New Animal Drugs for Minor Use and Minor Species		4/5/2017	NPRM & Final	2/2/2007 & 2/2/2008
0920-AA46	<a href="#">Link to UAs</a>	Fall 2011	CDC	Establishment of Minimum Standards for Birth Certificates		6/8/2017	Final	12/17/2005
0910-AG97	<a href="#">Link to UAs</a>	Spring 2014	FDA	FDA Food Safety Modernization Act (FSMA) Amendments to Reportable Food Registry (RFR Requirements)	ANPRM Withdrawn	8/1/2017	Other	
0910-AG46	<a href="#">Link to UAs</a>	Spring 2010	FDA	Abbreviated New Animal Drug Applications and Phased Review Process for New Animal Drug Applications		4/5/2017	NPRM	11/16/1989
0910-AG59	<a href="#">Link to UAs</a>	Spring 2011	FDA	Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives		4/5/2017	Final	04/00/2013
0930-AA10	<a href="#">Link to UAs</a>	Fall 2001	SAMHSA	Requirements Governing the Use of Seclusion and Restraint in Certain Nonmedical Community-Based Facilities for Children and Youth		6/8/2017	NPRM	04/00/2001

**Table 11 – All Other Withdrawn Rulemakings (Non DOI or HHS Rulemakings)**

RIN	Link to Rule	First Appearance on UA	Agency	Sub-Agency	Title of Rule	Other Withdrawn Info	Date Withdrawn	Statutory Deadline Action	Statutory Deadline Date
1515-AD48	<a href="#">Link to UAs</a>	Fall 2010	TREAS	CUSTOMS	United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative	Merged with 1515-AD51	5/10/2017	Final	10/1/2000
2130-AC07	<a href="#">Link to UAs</a>	Spring 2009	DOT	FRA	Development and Use of Rail Safety Technology: Dark Territory		4/4/2017	Final	10/16/2009
1652-AA68	<a href="#">Link to UAs</a>	Spring 2014	DHS	TSA	Adjustment of Passenger Civil Aviation Security Service Fee		6/5/2017	Final	

## Appendix III – All Other Detailed Agency Tables

### Treasury Withdrawn Rulemakings

Figure 12 – Treasury Withdrawn Rules on Unified Agenda (2000 – 2017)

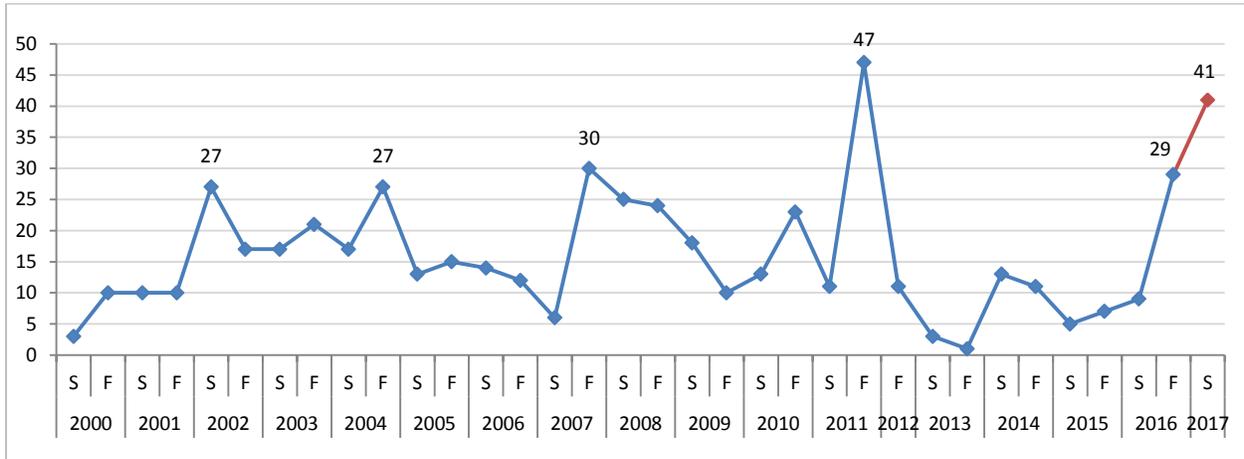


Table 12 – Treasury Rulemakings Withdrawn by the Trump Administration by Sub-Agency

Treasury Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
Internal Revenue Service	32	2009
Customs Revenue Function	5	2011
Alcohol and Tobacco Tax and Trade Bureau	2	2003
Departmental Offices	2	2010
<b>Total</b>	<b>41</b>	<b>2009</b>

### U.S. Department of Agriculture (USDA) Withdrawn Rulemakings

Figure 13 – USDA Withdrawn Rules on Unified Agenda (2000 – 2017)

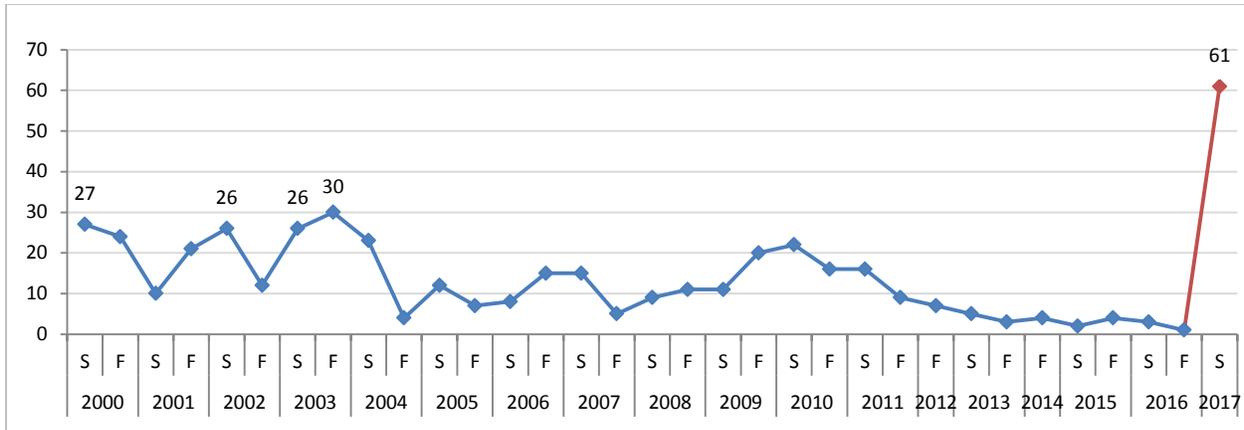
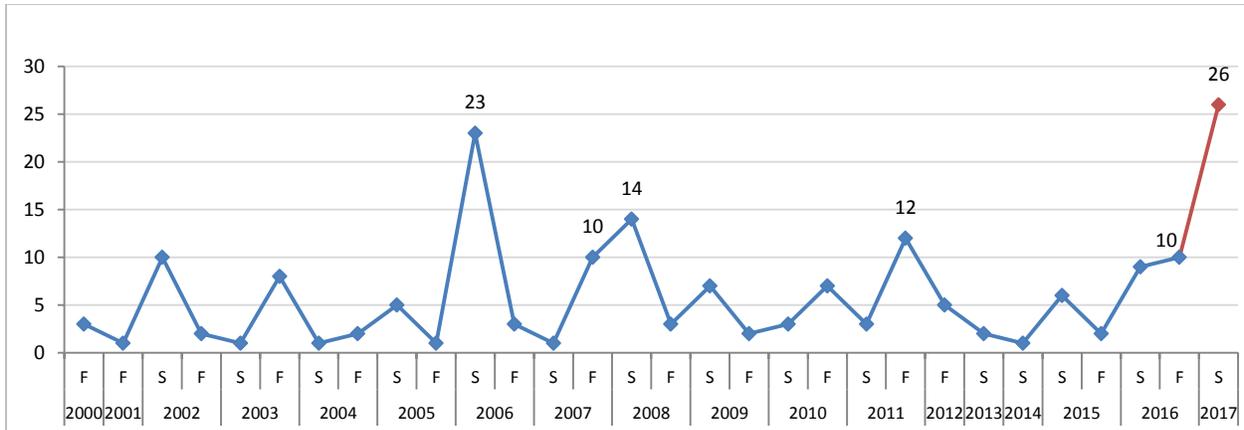


Table 13 – USDA Rulemakings Withdrawn by the Trump Administration by Sub-Agency

USDA Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
Forest Service	10	2010
National Institute of Food and Agriculture	8	2007
Grain Inspection, Packers and Stockyards Administration	6	2010
Rural Housing Service	6	2006
Rural Utilities Service	5	2012
Animal and Plant Health Inspection Service	5	2009
Foreign Agricultural Service	4	2010
Office of Procurement and Property Management	3	2014
Food and Nutrition Service	3	2010
Federal Crop Insurance Corporation	3	2013
Rural Business-Cooperative Service	2	2016
Food Safety and Inspection Service	2	2012
Agricultural Marketing Service	2	2013
Farm Service Agency	1	2008
Office of the Secretary	1	2014
<b>Total</b>	<b>61</b>	<b>2010</b>

**Department of Defense (DOD) Withdrawn Rulemakings**

**Figure 14 – DOD Withdrawn Rules on Unified Agenda (2000 – 2017)**



**Table 14 – DOD Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

DOD Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
Office of the Secretary	14	2011
Defense Acquisition Regulations Council	3	2016
Department of the Navy	3	2013
Office of Assistant Secretary for Health Affairs	3	2005
Department of the Army	2	2016
Department of the Air Force	1	2014
<b>Total</b>	<b>26</b>	<b>2012</b>

### Department of Justice (DOJ) Withdrawn Rulemakings

Figure 15 – DOJ Withdrawn Rules on Unified Agenda (2000 – 2017)

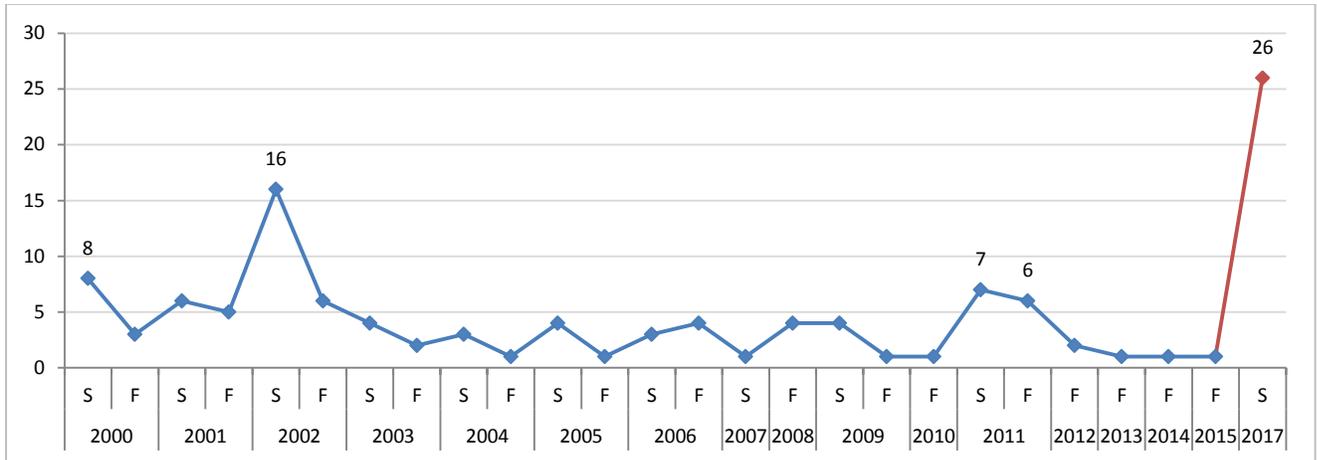
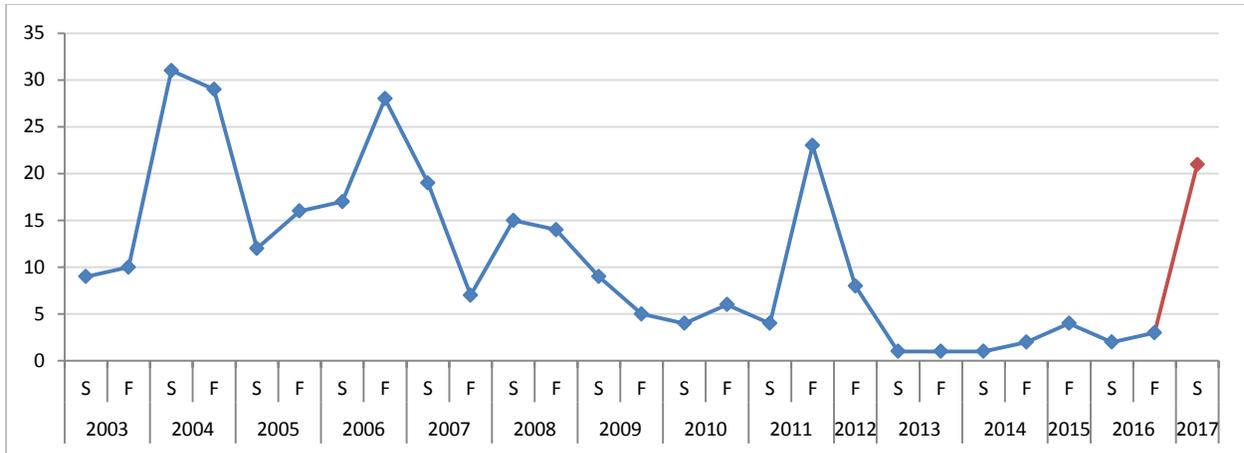


Table 15 – DOJ Rulemakings Withdrawn by the Trump Administration by Sub-Agency

DOJ Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
Bureau of Prisons	10	2006
Federal Bureau of Investigation	5	2004
Executive Office for Immigration Review	4	2008
Civil Rights Division	4	2008
Drug Enforcement Administration	2	2004
Office of Justice Programs	1	2006
<b>Total</b>	<b>26</b>	<b>2006</b>

### Department of Homeland Security (DHS) Withdrawn Rulemakings

**Figure 16 – DHS Withdrawn Rules on Unified Agenda (2000 – 2017)**



**Table 16 – DHS Rulemakings Withdrawn by the Trump Administration by Sub-Agency**

DHS Sub-Agency	Total Number of Rulemakings	Average First Appearance on a UA
U.S. Coast Guard	6	2010
U.S. Immigration and Customs Enforcement	6	2006
U.S. Citizenship and Immigration Services	4	2008
U.S. Customs and Border Protection	2	2007
Office of the Secretary	1	2011
Transportation Security Administration	1	2014
Federal Emergency Management Agency	1	2007
<b>Total</b>	<b>21</b>	<b>2008</b>

## All Other Withdrawn Rulemakings (Sub-Agencies With no Overarching Agency)

**Table 17 – Withdrawn by the Trump Administration by Sub-Agencies With no Overarching Agency**

Sub-Agency	Total	Average First Appearance on a UA	Other Significant
Office of Personnel Management (OPM)	8	2015	3
Social Security Administration (SSA)	5	2010	5
Department of State (STATE)	4	2013	4
Pension Benefit Guaranty Corporation (PBGC)	3	2009	3
Department of Veterans Affairs (VA)	3	2014	
Office of Management and Budget (OMB)	2	2014	
National Credit Union Administration (NCUA)	2	2014	
Small Business Administration (SBA)	2	2014	2
DOD/GSA/NASA (FAR)	1	2012	1
Federal Communications Commission (FCC)	1	2002	1
Agency for International Development (AID)	1	2015	1
Federal Energy Regulatory Commission (FERC)	1	2013	
General Services Administration (GSA)	1	2015	
<b>Total</b>	<b>34</b>	<b>2012</b>	<b>20</b>