



Regulatory Priorities for the Trump Administration

The mission of the Indiana Chamber of Commerce is to cultivate a world-class environment which provides economic opportunity and prosperity for the people of Indiana and their enterprises. The Indiana Chamber partners with 25,000 members and investors, representing over four million Hoosiers. The following onerous federal rules, regulations and executive orders are ones the Indiana business community would like to see as priorities for repeal in the Trump administration. These are issues we have repeatedly heard about from our member companies as detrimental to their ability to prosper and provide more jobs for Hoosiers, and we have strongly advocated for their repeal.

Environment and Energy

- EPA regulation setting limits on the carbon dioxide emissions from newly built coal- and natural gas-fired power plants, based on the amount of electricity they produce.

IMPACT: Dramatic increase in energy prices for business and residential consumers with minimal improvement in air quality.

UPDATE: The EPA is currently in the process of reviewing the New Source Performance Standard for coal- and natural gas-fired electric generating units. EPA Administrator Scott Pruitt signed a measure to repeal this regulation in early October.

- Clean Power Plan which mandates a cut in the entire power sector's emissions.

IMPACT: Dramatic increase in energy prices for business and residential consumers with minimal improvement in air quality.

UPDATE: President Trump signed an executive order to repeal the Clean Power Plan; in October, EPA Administrator Scott Pruitt formally proposed a new rule to dismantle the program.

- EPA ozone regulation issuing new National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM 2.5) (effective Oct. 24, 2016).

IMPACT: Under an increasingly tighter and more costly ozone standard, businesses and industries may be forced to relocate out of nonattainment areas or relocate overseas to countries with less strict environmental regulations simply because they cannot afford to operate under such extreme conditions in the U.S.

UPDATE: The Trump administration sought to delay this regulation from going into effect; however, lawsuits filed by nearly 20 state attorney generals led EPA to withdraw the delay. The rule went into effect October 1. EPA is currently investigating ways to ease implementation of the standard and provide flexibility for state and local governments that must develop plans to meet the new ozone requirements.

- New definition of Waters of the US (WOTUS)/Clean Water Act that gives the EPA greater jurisdiction – aka makes small waterways like wetlands and ponds subject to federal rule.

IMPACT: Erodes the state's ability to define jurisdiction within its bounds. Also, the case-by-case determination creates significant uncertainty for the regulated community.

UPDATE: In June, the Trump administration announced the move to rescind WOTUS.

- Fracking rule from the Interior Department's Bureau of Land Management designed to make it more difficult to conduct hydraulic fracturing for the extraction of oil or gas (fossil fuel).

IMPACT: Risks significant increase in natural gas prices and progress with energy independence (fracking led to the major price drops seen in the last decade).

UPDATE: The fracking rule is slated to take effect pending an appeals court decision (expected in November). Meanwhile, the Bureau of Land Management is reportedly working on issuing a rescission plan to formally repeal the rule.

- Army Corps of Engineers block of final portion of the Dakota Access Pipeline (93% already complete) which threatens energy infrastructure investment if approvals can be so arbitrarily revoked.

IMPACT: Creates dangerous precedent of a federal entity reversing course near the end of an approved project.

UPDATE: President Trump approved final permit for the pipeline. Then, a U.S. district judge ordered federal regulators to conduct a new environmental review of the pipeline (deeming the first one inadequate); the pipeline is still operating while that is taking place.

Finance

- Proposed Consumer Financial Protection Bureau rule seeks to remove "mandatory arbitration" for financial company consumers, thereby allowing these customers to seek class-action lawsuits against companies.

IMPACT: Opens up financial institutions to more consumer litigation.

- Rulemaking from federal bodies which oversee banking and other financial institutions that have great bearing on how those entities conduct their businesses. (Authority directed by the Dodd-Frank Act; however, rulemaking changes can occur at the agency level.)

IMPACT: Vast overreach that is costly for these businesses (to comply with) and, ultimately, their customers.

UPDATE: This summer, the U.S. Treasury released a report essentially calling for the rollback of Dodd-Frank. Separately, in June, the House voted along party lines to repeal many of the stricter Dodd-Frank financial reforms, but there has not been similar progress in the Senate.

- Recently finalized Department of Treasury rules (under IRC section 385) re-characterize certain transactions between related companies, treating the resulting debt as equity instead. (Intended to address corporate inversions; effective on debt issued after January 1, 2017.)

IMPACT: Will unfairly reflect the internal operations of businesses, resulting in unjustified taxation.

UPDATE: This summer, the Treasury Department and IRS issued a 12-month delay of the documentation requirements, which were set to take effect January 2018. (Other aspects of 385 are still effective in 2018.)

Health and Workplace Safety

- Orders that support Obamacare.

IMPACT: Perpetuates the higher cost of health care premiums for employers and their workers.

- FDA menu labeling rules requiring restaurants and grocery stores to list calories for the food they sell. (Provision of Obamacare that has previously been delayed; was slated to go into effect May 2017.)

IMPACT: Puts restaurants, in particular, in an impossible position to fulfill the rule due to menu special orders.

UPDATE: The FDA delayed the implementation until May 2018, but the rule is expected go into effect then. Rule guidance is expected by the end of the year.

- OSHA rule to limit workers' exposure to respirable crystalline silica to 50 micrograms per cubic meter of air, averaged over an eight-hour shift. (Effective June 23, 2016; companies have one year from that date to comply.)

IMPACT: Viewed as unachievable; could drive many foundries and construction companies out of business.

UPDATE: OSHA delayed implementation until late September (for companies involved in the construction industry) to allow the agency to conduct additional outreach and provide educational materials and guidance for affected employers. Requirements for other industries, including manufacturing, still must be met starting June 23, 2018.

- OSHA recordkeeping and reporting rule requiring certain companies with 250 or more employees to make all injury and illness data public via electronic forms. (Lawsuit filed Jan. 2017 with the U.S. Court of Appeals.)

IMPACT: This system doesn't capture close to all of the pertinent information, yet allows OSHA to now cite employers even without an employee complaint.

UPDATE: OSHA has extended the deadline for submitting forms to December 1, 2017. This will provide the affected companies with more time to familiarize themselves with the electronic reporting system, as well as give the Trump administration an opportunity to review the new electronic reporting requirements before they are implemented.

Labor Relations

- Overtime rule would double the salary threshold – from \$23,660 to \$47,476 per year – under which most salaried workers are guaranteed overtime (preliminary injunction has this on hold).

IMPACT: Immediate payroll hikes for many employers, which could jeopardize jobs and business growth.

UPDATE: In early September, the Trump administration announced it would not appeal a district court's ruling that said the government overreached when it expanded the number of people covered by the rule. This formally puts an end to the far-reaching overtime rule.

- Paid sick leave for federal contractors which requires companies that do business with the federal government to provide their employees with at least seven days of paid sick leave each year, including paid leave to allow for family care (effective Jan. 1, 2017).

IMPACT: Will put another unnecessary and costly burden on smaller employers in particular.

- Federal Acquisition Regulatory Council's final rule and the Department of Labor's guidance implementing the "Fair Pay and Safe Workplaces" executive order, which subjects existing and prospective government contractors and subcontractors to a broad new set of record-keeping, reporting and compliance requirements or risk blacklisting (preliminary injunction has this on hold).

IMPACT: Would result in fewer qualified bids for federal contracts, as well as needless delays and litigation – thereby crippling the contract award process.

UPDATE: President Trump issued an executive order in the spring revoking the "Fair Pay and Safe Workplaces" executive order.

Technology

- FCC net neutrality rule to regulate broadband; 2015 rules require service providers to treat all web traffic equally and designates broadband like a public utility.

IMPACT: Essentially gives regulatory control of the internet to the federal government. One potential unintended consequence is slowing down innovation.

UPDATE: In May, FCC Chairman Ajit Pai initiated a rulemaking to eliminate the Title II public-utility style designation of broadband and examine whether to keep net neutrality rules. Then in late November, the FCC formally announced its decision to repeal net neutrality.