



Info Alert

National Conference of State Legislatures Office of State-Federal Relations

Congress Approves First Congressional Review Act Resolution

Feb. 9, 2017

On Feb. 2 the Senate passed, [54-45](#), a joint [resolution](#) disapproving of the Department of Interior's (DOI) Stream Protection Rule. The House had previously passed it, [228-194](#), on Feb. 1. This rule is the first of a number of rules expected to be undone by the 115th Congress through the utilization of the [Congressional Review Act](#) (CRA). In anticipation of congressional action, the White House issued a [statement of administration policy](#) on Feb. 1, indicating the President's support and intent to sign the resolution undoing the rule finalized by the previous Administration.

The CRA allows Congress and the new president to abolish any federal regulation finalized on, or after [June 13](#), 2016 by a simple majority vote in both chambers. Not only does the CRA remove the rule in question, but also prohibits a federal agency from "reissuing" the same regulation in the future, or promulgating a regulation that is "substantially" similar, unless the new or revised regulation is "specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Congress has considered a few CRA joint resolutions of disapproval since its enactment, but only [one](#) agency final rule has been successfully overturned since. The Congressional Research Service compiled a [list](#) of over 50 finalized rules which are subject to removal by the CRA.

[Finalized](#) by DOI's Office of Surface Mining Reclamation and Enforcement (OSMRE) on Dec. 19, the rule updates 33-year old regulations and establishes requirements for companies to avoid, or minimize, impacts mining practices have on surface water, ground water, fish, wildlife and other natural resources. The rule also requires companies to restore streams and return mined areas to their uses prior to mining activities, and replant those areas with native vegetation unless doing so would conflict with implemented land use. The Department of Interior estimated the rule would "protect 6,000 miles of streams and 52,000 acres of forests over the next two decades."

In addition to the nullification of the Stream Protection Rule, Congress is in the process of taking up a number of resolutions to repeal final rules issued over the last six months of the Obama administration. This includes a [resolution](#) to disapprove of the Bureau of Land Management's

(BLM) methane venting and flaring [rule](#) that is aimed at reducing methane emissions and “wasted” gas from public and tribal lands. The resolution passed the House [221-191 on Feb. 3](#), and is expected to pass the Senate next week. Another rule Congress is likely to undo concerns the BLM’s [Planning 2.0 rule](#). The rule, which was finalized in December 2016, aimed to update and streamline the agency's process for creating land use plans. On Feb. 7, the House passed, [234-186](#), its [resolution](#) for disapproval, sending it on the Senate which is expected to take it up next week.

In total, as of Feb. 9, 29 CRA-related House joint resolutions have been introduced as well as 10 CRA-related Senate joint resolutions. NCSL anticipates the President will sign a bulk number of CRA resolutions, having stated support for 9 introduced thus far, [here](#) and [here](#).

For any further questions or concerns on congressional use of the CRA, please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Kristen Hildreth](#) (202-624-3597).