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MARK WALKER, CHAIRMAN
RSC THE REPUBLICAN STUDY COMMITTEE

H. J. Res. 36 - Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation"

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FLOOR SCHEDULE:

Expected to be considered on February 3, 2017, subject to a closed rule.

TOPLINE SUMMARY:

H.J. Res. 36 would use the Congressional Review Act to provide for the disapproval under chapter 8 of title 5, United States Code, of the final rule of the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation" related to methane emissions on lands administered by the Bureau of Land Management (BLM).

COST:

A Congressional Budget Office (CBO) estimate is not yet available.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.J. Res. 36 would provide for the disapproval of the rule submitted by the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation" (published at 81 Fed. Reg. 83008 (November 18, 2016)). The rule would implement regulations on natural gas from mineral leases administered by BLM. According to an April 25, 2016, Subcommittee on Energy and Mineral Resources hearing memo, "The production of methane on federal lands is currently regulated by the Bureau of Land Management (BLM) under the regime of the Mineral Leasing Act (MLA), which permits the BLM to lease land for the purpose of "prospect[ing] for oil or gas" to "any applicant qualified." The new rule states that the Mineral Leasing Act of 1920 (MLA) requires the BLM to ensure that lessees "use all

reasonable precautions to prevent waste of oil or gas developed in the land". In doing so, the rule would implement regulations related to the "venting and flaring of associated gas from development oil wells (routine flaring occurs at oil wells that dispose of gas as a waste product), gas leaks from equipment at the well site or elsewhere on the lease, operation of high-bleed pneumatic controllers and certain pneumatic pumps, gas emissions from storage vessels, downhole well maintenance and liquids unloading, and well drilling and completions."

According to the House Committee on Natural Resources, the "BLM's proposed rule overlaps with and is duplicative of state and EPA efforts to reduce methane emissions from oil and gas sites, and overreaches by regulating an area it has no statutory authority to do so." Additionally, "the BLM has proposed a rule to combat the emission of methane from oil and gas wells – a task Congress authorized the U.S. Environmental Protection Agency (EPA) to regulate under the Clean Air Act (CAA) in 1963."

More information on the rule can be found here from an April 25, 2016, Subcommittee on Energy and Mineral Resources hearing memo.

The Congressional Review Act provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In order for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115th Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

COMMITTEE ACTION:

H.J. Res. 36 was introduced on January 30, and referred to the House Committee on Natural Resources.

ADMINISTRATION POSITION:

A Statement of Administration Policy is not yet available.

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section I and Article I, Section 8, clause 18