COALITION FOR SENSIBLE SAFEGUARDS

July 18, 2012

Dear Representative,

The Coalition for Sensible Safeguards urges you to oppose the "Red Tape Reduction and Small Business Job Creation Act" (H.R. 4078), which is scheduled for a vote soon. This bill is a composite of seven unbelievably misnamed bills designed to attack regulatory safeguards, including:

- "Midnight Rule Relief Act of 2012" (H.R. 4607)
- "Regulatory Freeze for Jobs Act of 2012" (H.R. 4078)
- "Sunshine for Regulatory Decrees and Settlements Act of 2012" (H.R. 3862)
- "Unfunded Mandates Information and Transparency Act of 2011" (H.R. 373)
- "RAPID Act" (H.R. 4377)
- "SEC Regulatory Accountability Act" (H.R. 2308)
- An act to force the Commodity Futures Trading Commission to conduct cost-benefit studies of every regulation and order to slow down its work. (H.R. 1840).

This mega Safeguard Shutdown bill would freeze all new protections for years and make it make difficult to issue future protections and enforce existing laws.

The Regulatory Freeze for Jobs Act is the most far-reaching component – it would prohibit the development or issuance of all significant government regulations until the unemployment rate is below 6.0 percent.

This legislation would halt new standards to protect workplace safety, the environment, food safety, consumer product safety, and ensure a stable financial system, standards that are needed to implement laws already passed by Congress. Even reforms requested and welcomed by industry, such as new fuel efficiency standards, would be stopped by this legislation. Government agencies would be helpless to respond to emerging crises, such as *Salmonella*-tainted eggs or spinach contaminated with *E. coli*.

Cass Sunstein, President Obama's top regulatory official, characterized this badly conceived bill in the following way: "[A] moratorium would not be a scalpel or a machete, it would be more like a nuclear bomb, in the sense that it would prevent regulations that, let's say, cost very little, and have very significant economic or public health benefits."[1]

Another component of the bill, the Midnight Rule Relief Act of 2012, H.R. 4607, would freeze new rules from being approved between November and the next inauguration. This bill upends the existing roles of Congress, federal agencies, and the president in the rulemaking process. Agencies develop standards that implement existing laws – originally passed by Congress – related to clean air, clean water, food safety, worker safety, and a host of other issues. At any given time, there are many rules that have been under

[1] https://www.politicopro.com/go/?id=5848

development for months, if not years,[2] because completing the more than 110 analytical and procedural steps[3] in the rulemaking process takes time. These rules shouldn't be stopped because their publication date falls at the end of a president's term. If a lame-duck president does finalize rules during this period, the new administration has the power to withdraw or amend those rules it doesn't approve of – and they regularly do so. This bill is an inappropriate congressional attempt to override the authority of the presidency and ignore existing administrative procedures.

Similarly, the component of the bill that was formerly H.R. 3862 would enable deep-pocketed interests representing regulated industries to indefinitely obstruct and delay requirements to follow federal law. The bill gives third parties the right to obstruct and delay a plaintiff's right to sue to ensure that a standard is followed and the plaintiff's interests are protected. By allowing outside third parties to obstruct and delay federal consent decrees and settlement agreements, this bill would clog our already overscheduled courts and harm plaintiffs – corporations, state and local governments, nonprofit groups, and individuals – by delaying important health and safety measures.

Title IV, the Unfunded Mandates Information and Transparency Act, is equally problematic. This legislation would paralyze the regulatory process by imposing duplicative and unnecessary requirements for more analytic studies. For example, agencies would be required to determine a proposed major regulation's "reasonably foreseeable indirect costs." This new and poorly-defined mandate would be impossible to forecast with any reliability. It would also expand the scope of judicial review and result in increased litigation. It would cause regulatory delay and uncertainty and stagnate the regulatory process while doing nothing to protect the public or improve our system of safeguards.

Finally, the legislation incorporates measures that demonstrate a failure to learn from recent disasters. The massive British Petroleum oil spill in the Gulf was one of the largest ecological catastrophes in history, but the RAPID Act, H.R. 4377, included in this legislation, would make it easier for companies to acquire energy permit approvals without addressing critical environmental concerns. This would increase the likelihood of future environmental disasters. Also included in this legislation are two measures that would delay or halt key financial reforms designed to address the causes of the 2008 Wall Street financial collapse. The Securities and Exchange Commission Regulatory Accountability Act, H.R. 2308, and The Consideration by Commodity Futures Trading Commission of Certain Costs and Benefits Act, H.R. 1840, would undermine new, common sense financial regulatory standards and rules of the road and allow the excessive risk-taking on Wall Street to continue.

This broadside attack on regulations is the latest in a series of legislative proposals designed to mislead the public into believing that our country's long-established system of health and safety protections must be weakened to encourage job growth.

While our nation's job crisis demands urgent and sustained attention, the Regulatory Freeze Act, a main component of this bill, is exactly the wrong medicine. Public and private experts, business owners, and a majority of economists have repeatedly stated that the U.S. regulatory system is good for business and does not impede job growth. For example, a top official at the Treasury Department recently conducted a thorough analysis of economic data and concluded, "None of these data support the claim that regulatory

---

[2] Administrative Conference of the United States, *Recommendation 2012-2: Midnight Rules*, June 14, 2012 ("The Conference has found that a dispassionate look at midnight rules issued by past administrations of both political parties reveals that most were under active consideration long before the November election and many were relatively routine matters not implicating new policy initiatives by incumbent administrations.") *available at http://www.acus.gov/wp-content/uploads/downloads/2012/06/Final-Recommendation-2012-2-Midnight-Rules.pdf*

[3] http://www.law.fsu.edu/journal/lawreview/downloads/272/Seid.pdf

uncertainty is holding back hiring."[4] Survey after survey of economists, including one conducted by the *Wall Street Journal,* report that two thirds of economists believe lack of demand, rather than uncertainty about government policy, is the main obstacle to increased hiring.[5]

The combination of these bills into one enormous regulatory safeguard shutdown bill is a shameful attempt to stop federal agencies from implementing existing legislation that protects American families from harm. For these reasons, we strongly urge you to oppose this bill.

Sincerely,

Katherine McFate, President and CEO, OMB Watch
Co-chair, Coalition for Sensible Safeguards

Robert Weissman, President, Public Citizen
Co-chair, Coalition for Sensible Safeguards

The Coalition for Sensible Safeguards is an alliance of consumer, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.

---

[4] http://www.treasury.gov/connect/blog/Pages/Is-Regulatory-Uncertainty-a-Major-Impediment-to-Job-Growth.aspx
[5] http://online.wsj.com/article/SB10001424052702303661904576452181063763332.html