



June 5, 2013

Dear Senator:

RE: S. 1029, The Regulatory Accountability Act of 2013

The Coalition for Sensible Safeguards strongly urges you to oppose S. 1029, the Regulatory Accountability Act of 2013. The current rulemaking process is plagued with lengthy delays, undue influence by regulated industries, and convoluted court challenges. This bill would make each of these problems worse. In fact, it would make rules almost impossible to enact.

If passed, critical upgrades to public health and safety standards, including clean air and water standards, safe food and consumer products, and workplace safety rules would be blocked – threatening consumer confidence and putting the health of the American people and the U.S. economy at risk.

The modestly revised Regulatory Accountability Act reintroduced in this Congress does not improve or streamline our current regulatory process. In fact, the bill adds numerous new analytical requirements to the Administrative Procedures Act and requires federal agencies to conduct nonsensical estimates of all the “indirect” costs and benefits of a proposed rule (what are the boundaries of what can be counted as an indirect cost of a federal rule?). The bill would significantly increase the labor and real time required to produce the analyses and findings that would be required to pass any new rule. The RAA is designed to further obstruct and delay rulemaking rather than improve the regulatory process.

In fact S. 1029 would mandate a “one-size-fits-all” approach and force every federal agency to adopt the “least costly” regulation – even if a slightly more expensive rule would better protect the public’s health and safety. **This is a profound change and effectively creates a “super-mandate” for all executive and independent agencies that overrides 25 existing statutes, including the Clean Air Act, the Clean Water Act, the Occupational Safety and Health Act, and the Consumer Product Safety Improvement Act. These laws were written to prioritize public health, safety, and economic security, not to be governed by the cost concerns of regulated entities.**

Certain additions to S. 1029 make the bill even worse than the version introduced last Congress. Most crucially, agencies that do not finalize rules within two to three years of proposing them have to abandon the rules and start from scratch at the very beginning of the rulemaking process. This will create an incentive for regulated industries and officials opposed to implementation of a particular law to exploit the current sources of delay in order to “run out the clock” on a rule, thus indefinitely keeping legislation enacted by Congress from being implemented.

This legislation creates even more hoops for “major” or “high-impact” rules – i.e., rules that provide society with the largest health and safety benefits. It would allow any interested person to petition the agency to hold a public hearing on any "genuinely disputed" scientific or factual conclusions underlying the proposed rule. A single hearing process “leads to substantial delays,” and this clause would give regulated industries multiple opportunities to challenge agency data and science and so stretch out the rulemaking process endlessly.

The bill would also expand the scope of judicial review, encouraging a dangerous move away from traditional judicial deference to agency experts toward a system in which courts overturn highly technical, resource-intensive agency decisions, even though judges lack the scientific or technical expertise to judge the need for or impact of a rule. This new and inappropriate role for the courts is a recipe for increased litigation, endless delays, and more uncertainty for regulated parties and the public.

To sum, S. 1029 exacerbates the current problems in the regulatory process.

The Coalition for Sensible Safeguards firmly believes (and the public agrees) that we need stronger enforcement of existing regulations to hold irresponsible corporations accountable for reckless and negligent behavior, and we need to modernize existing standards to take into account advancing scientific knowledge and improved understanding of the risks that certain products pose to the public.

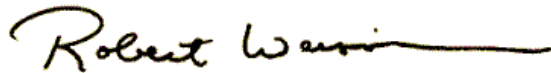
The costs of deregulation should be obvious by now: the Wall Street economic collapse, the British Petroleum oil spill catastrophe, various food and product safety recalls, and numerous workplace safety disasters including the Upper Big Branch mine explosion in West Virginia and the recent West, Texas, fertilizer plant explosion demonstrated the need for a regulatory system that protects the public, not corporate interests.

The Coalition for Sensible Safeguards urges you to oppose S. 1029, the Regulatory Accountability Act. It is a huge step in the wrong direction.

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.*