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July 23, 2012

Dear Representative,

On behalf of our millions of members and supporters, we are writing to urge you to oppose the "Red Tape Reduction and Small Business Job Creation Act" (H.R. 4078), which includes the "Regulatory Freeze For Jobs Act," the "Midnight Rule Relief Act of 2012" (H.R. 4607), and the "Sunshine for Regulatory Decrees and Settlements Act of 2012" (H.R. 3862), among other harmful bills. The bill is expected to be voted on this week. This bill would shut down the entire regulatory system, endangering the health, safety, and economic stability of every American. This sweeping and unprecedented bill would also supersede numerous laws currently on the books without any evidence that they would improve the economy.

The "Regulatory Freeze for Jobs Act" is the most far-reaching, extreme, and dangerous of this trio. It prohibits almost all "significant" regulatory actions for as long as unemployment remains consistently above 6% without fluctuation. This would stop important and critical protections in their tracks, including regulations that ensure that we aren't contracting foodborne illness, that veterans receive benefits for defending our country, that our air and water are clean, that our medical products are safe, and that we aren't injured when we go to work. To recognize the absurdity of this bill, consider what would have happened if the government had been prevented from issuing new rules to protect the economy at the outset of the Great Depression or the recent

financial meltdown. Or think about how this bill would block new clean car standards, which are supported by industry and help consumers and the economy while protecting the environment.

The “Midnight Rule Relief Act” would stop any regulations from being proposed or finalized during the Presidential lame duck period if the President is not serving a consecutive term. This legislation would block implementation of regulatory standards and safeguards simply by virtue of when they were proposed or finalized. Such an arbitrary distinction, which bears no relationship to the merits of any particular regulation, would impact regulations that have been in the works for *years*.<sup>1</sup> Indeed, regulatory process experts at the Administrative Conference of the United States recently released their recommendation on reforms to “midnight” rulemaking, stating “shutting the rulemaking process down during this period would be impractical given that numerous agency programs require constant regulatory activity, often with statutory deadlines.”<sup>2</sup>

Last, but not least, the “Sunshine for Regulatory Decrees and Settlements Act” allows individuals who *want* the federal government to continue breaking the law for their own benefit to obstruct and delay requirements to follow federal law. Consider the situation in which a federal agency commits a gross violation of a federal law and a state challenges that lawbreaking in court. Today, the state and federal agency have the ability to resolve that legal violation through a consent decree or settlement agreement, promptly, without wasting judicial resources, while ensuring federal law is upheld and the state’s valid legal interests are safeguarded. But this bill thwarts all of that by anointing third parties that support the perpetuation of the unlawful behavior with the right to obstruct and delay a plaintiff’s legal right to ensure that the law is followed and the plaintiff’s interests are protected. By interfering with a court’s ability to oversee consent decrees and the ability of parties to enter into settlements, this bill would cause delay, greatly increase the costs of litigation, and impede meaningful resolution of lawsuits.

Even if you believe that the regulatory process should be refined, this bill is extreme. It is not intended to improve the regulatory system, but to destroy it. It would stop almost all regulation in its tracks, putting the safety, security, and health of the American public at risk. For these reasons, we strongly urge you to oppose this bill.

Sincerely,

Peg Seminario  
Director, Safety and Health  
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<sup>1</sup> 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>

<sup>2</sup> *Id.* at 3.

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