



March 20, 2015

The Honorable Bob Goodlatte
Chairman
House of Representatives
Judiciary Committee
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
House of Representatives
Judiciary Committee
Washington, DC 20515

Re: Mark-up of H.R. 712, the Sunshine for Regulatory Decrees and Settlements Act of 2015

Dear Representative Goodlatte and Representative Conyers:

The Coalition for Sensible Safeguards (CSS) strongly urges you to oppose the Sunshine for Regulatory Decrees and Settlements Act of 2015 (H.R. 712). We are an alliance of more than 150 consumer, small business, 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.

Under the guise of improving "transparency," H.R. 712 would empower the opponents of particular regulatory safeguards to perpetuate unlawful agency inaction; it would do nothing to ensure agencies are actually following the legal deadlines previous Congresses wrote into laws. CSS urges you to protect the American public and the rule of law by opposing this counterproductive bill.

This so-called "sunshine" law has been promoted with fog and clouds. Most people would think that the issue is that agencies enter into agreements to finalize regulations the way the plaintiffs want. That is just not the case. Instead, the lawsuits require agencies to finalize regulations on a date in the future because the agency failed to meet a congressional directive to finalize a rule by a date certain.

By design, H.R. 712 would create a gauntlet of duplicative, burdensome, and time-consuming procedures that apply to settlements and decrees, once again slowing down the rulemaking process and preventing federal law from being effectively implemented. H.R. 712 would subject any "regulatory" decree or settlement to a lengthy new notice-and-comment process (even though agencies are already required to engage in a notice-and-comment process). It would also facilitate intervention by any individuals who declare they would be affected by the regulatory action in question and then include these parties in additional, court-supervised settlement talks.

It cannot be overstated that despite claims to the contrary, court-ordered settlements and decrees do not determine the ultimate substance of agency rules. In fact, a December 2014 Government

Accountability Office (GAO) report surveyed settlements on major EPA rulemakings to see if there was a relationships between rules pushed forward through settlements and the substantive content of the completed rules.¹ Their findings: settlements had no influence on the content of the final rules issued.

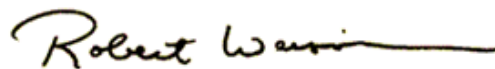
It is clear that the actual intent of H.R. 712 is simply to ensure that critical health and safety protections continue to be delayed – by undermining the ability of the public and public interest groups to use the courts to require agencies to carry out Congress’ intent and meet the deadlines Congress has written into federal laws.

The Sunshine for Regulatory Decrees and Settlements Act is an assault on the public protections and safeguards required by the laws Congress passed to protect the health, safety, and welfare of all Americans. H.R. 712 would waste the limited time and resources of agencies, courts, and the American public. We strongly urge you to oppose this bill.

Sincerely,



Katherine McFate, President and CEO
Center for Effective Government
Co-chair, Coalition for Sensible Safeguards



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

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¹ United States Government Accountability Office. (2014, December). *Environmental Litigation: Impact on Deadline Suites on EPA’s Rulemaking Is Limited*. (Publication No. GAO-15-34)