COALITION FOR SENSIBLE SAFEGUARDS

January 10, 2017

RE: Floor vote of H.R. 5, the Regulatory Accountability Act of 2017

Dear Representative;

The Coalition for Sensible Safeguards (CSS), an alliance of over 150 labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, strongly opposes H. R. 5, the Regulatory Accountability Act of 2017 (RAA), which will be voted on this week.

H.R. 5 is a compilation of radical and harmful legislative proposals that will permanently cripple the government's ability to protect the public by rigging the regulatory process against new regulatory safeguards in favor of deregulation or regulatory inaction. The bill is just as dangerous and extreme as the REINS Act (H.R. 26) and the Midnight Rules Relief Act (H.R. 21).

All of these bills are designed to make it as difficult as possible for federal agencies to implement existing or new laws that ensure our access to clean air and water, safe workplaces, untainted food and drugs, safe toys and consumer goods, and a stable financial system free of Wall Street recklessness. On the other hand, deregulatory actions that repeal existing rules are exempt by virtue of the legislation's myopic focus on "costs" to corporate special interests instead of "benefits" to the public. In short, the legislation will create a double standard in our regulatory system that systematically favors deregulation over new public protections and "fast-tracks" the repeal of rules while paralyzing the creation of new ones.

The new version of the RAA, introduced in this Congress, takes the previous RAA legislation and folds in several destructive pieces of other so-called regulatory reform bills including: the misleadingly named Small Business Regulatory Flexibility Improvements Act, the Require Evaluation before Implementing Executive Wishlists Act (REVIEW Act), the All Economic Regulations are Transparent Act (ALERT Act), the Separation of Powers Restoration Act and the Providing Accountability Through Transparency Act. These pieces of other bills seek to worsen an already destructive bill and add several more corrosive layers intending to dismantle our public protections.

The current rulemaking process is already plagued with lengthy delays, undue influence by regulated industries, and convoluted court challenges. If passed, Title I of this bill would make each of these problems substantially worse and **would undermine our public protections and jeopardize public health by threatening the safeguards that ensure our access to clean air and water, safe workplaces, untainted food and drugs, and safe toys and consumer goods.**

Rather than enhancing protections, it does the exact opposite. It adds 80 new analytical requirements to the Administrative Procedure Act and requires federal agencies to conduct estimates of all the "indirect"

costs and benefits of proposed rules and all potential alternatives without providing any definition of what constitutes, or more importantly, does not constitute an indirect cost. The legislation would significantly increase the demands on already constrained agency resources to produce the analyses and findings that would be required to finalize any new rule. Thus, **the RAA is designed to further obstruct and delay rulemaking rather than improve the regulatory process.**

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. This provision would give regulated industries multiple opportunities to challenge agency data and science and thus further stretch out the already lengthy rulemaking process.

H.R. 5 would also create a restrictive mandate of a "one-size-fits-all" directive that every federal agency adopt the "least costly" alternative. This is a profound change **and effectively creates a "super-mandate" for all major regulatory actions of executive and independent agencies which overrides twenty-five 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 prioritize public health, safety, and economic security, not the cost concerns of regulated entities.

Title II of H.R. 5 is the Separation of Powers Restoration Act piece which seeks to destroy the *Chevron* deference principal. It would remove the judicial deference that agencies are granted when their regulations are challenged in court. This would be a radical change that upends one of the fundamental principles in administrative law, namely that courts should not second-guess scientific and technical expertise at federal agencies. Overly intrusive judicial review is one of the primary reasons for regulatory delay and paralysis and this legislation would make those problems much worse.

The misleadingly named Small Business Regulatory Flexibility Improvements Act (Title III) is a Trojan horse that would expand the reach and scope of regulatory review panels, increase unnecessary regulatory delays, increase undue influence by regulated industries and encourage convoluted court challenges –all in the name of helping "small business," but so expansively applied that mostly big businesses would benefit. Because the bill mandates that these panels look at 'indirect costs,' which are defined very broadly, it could be applied to virtually any agency action to develop public protections.

The REVIEW Act (Title IV) would make our system of regulatory safeguards weaker by requiring courts reviewing "high-impact" regulations to automatically "stay" or block the enforcement of such regulations until all litigation is resolved, a process that takes many years to complete. It would add several years of delay to an already glacially slow rulemaking process, invite more rather than less litigation, and rob the American people of many critical upgrades to science-based public protections, especially those that ensure clean air and water, safe food and consumer products, safe workplaces, and a stable, prosperous economy.

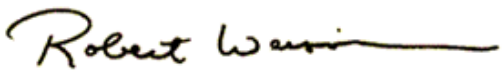
The ALERT Act (Title V) is designed to impede the government's ability to implement critical new public health and safety protections by adding a six-month delay. This amounts to a six-month regulatory moratorium, even after the often lengthy period required for developing and finalizing these regulations. Such delays could extend well beyond that initial six-month period should the OIRA Administrator fail to post the required information in a timely manner.

This new version of the RAA would override and threaten decades of public protections. The innocuous-sounding act is, in reality, the biggest threat to public health standards, workplace safety rules, environmental safeguards, and financial reform regulations to appear in decades. It acts as a "super-mandate," rewriting the requirements of landmark legislation such as the Clean Air Act and the

Occupational Safety and Health Act and distorting their protective focus to instead prioritize compliance costs.

We strongly urge opposition to H.R. 5, the Regulatory Accountability Act of 2017.

Sincerely,



Robert Weissman
President
Public Citizen
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.