COALITION FOR SENSIBLE SAFEGUARDS

July 10, 2018

RE: H.R. 50, the Unfunded Mandates Information and Transparency Act of 2017

Dear Representative,

The Coalition for Sensible Safeguards (CSS), an alliance of over 160 labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, strongly urges members to oppose H.R. 50, the Unfunded Mandates Information and Transparency Act of 2017 (UMITA).

The bill neither improves nor streamlines the regulatory process. The current regulatory process is already plagued by hurdles and lengthy delays. UMITA would make it even more difficult for agencies to implement laws already enacted by Congress. If passed, this legislation would rob the American people of many critical upgrades to public health and safety standards, including important rules that ensure clean air and water, safe food and consumer products, safe workplaces, and a stable, prosperous economy.

This legislation is premised on the false notion that agencies are not properly accounting for regulatory costs. Supporters of the bill ignore the fact that the Office of Management and Budget (OMB) has consistently found that the benefits of regulation overwhelmingly outweigh their costs. Indeed the most recent OMB report to Congress, issued by the Trump Administration this past February found that rules issued between 2006 and 2016 resulted in benefits ranging from $287 billion to $911 billion, compared to costs ranging from $78 billion to $115 billion.[1]

Importantly, this report clarifies that the benefits derived from major regulations have vastly exceeded their costs, even using the most conservative estimates. There are few places one can go for such a positive return on investment, but U.S. health, safety, and environmental regulation is one of them. With this legislation, Congress would be making it harder, not easier, for our government to provide much-needed health and safety protections that produce enormous benefits to the public.

UMITA would greatly decrease transparency and give industry an upper hand in the regulatory process. The measure grants businesses a right to information about a rule and an opportunity to submit feedback to the agency before the rule is even proposed. There is no requirement that the public be informed about private sector efforts to affect regulatory action before rulemaking begins. The bill itself states that industry should be given secret, preferential access to regulators "as early as possible, before issuance of a notice of proposed rulemaking."

[1] https://www.whitehouse.gov/wp-content/uploads/2017/12/draft_2017_cost_benefit_report.pdf

Supporters of H.R. 50 misleadingly claim that the bill is intended to protect states' rights while ignoring that the Trump Administration's deregulatory agenda has run roughshod over federalism principles and trampled on states' rights by gutting federal public protections and blocking states from adopting or enforcing stronger state-level standards and protections. For example:

- The Department of Interior has proposed to massively expand offshore drilling along the Atlantic and Pacific coasts despite strong and bipartisan opposition from coastal states and communities that are seeking to ban offshore drilling off their coasts.
- The Federal Communications Commission has repealed the Net Neutrality rule that ensures a free and open internet, and in the process, has affirmatively preempted states that are seeking to adopt stronger state Net Neutrality standards in the wake of the repeal.
- The Environmental Protection Agency and Department of Transportation are revisiting emission and fuel economy standards for cars adopted under the last administration, a move that may prevent California from maintaining its standards which are the cleanest in the country.

Numerous state attorney generals have challenged deregulatory actions from this Administration in court, with considerable success, due to the harms that these actions pose to citizens of their states. In its aggressive zeal to deregulate, this Administration has shown that it is more than willing to override laws and regulations adopted by states seeking stronger, not weaker, public protections.

Supporters claim that this legislation is needed to force agencies to comply with the Unfunded Mandates Reform Act (UMRA). Yet they overlook that agencies must already comply with up to 110 analytical and procedural requirements before they can act to address pressing public health and safety concerns.[2] Many of these steps satisfy UMRA's requirements. This new legislation will add even more redundancy and duplication that will cause further delay at federal agencies.

The bill would also require agencies to perform retrospective analyses at the request of any chairman or ranking minority member of any standing or select committee of the House or Senate. Such requests could potentially require agencies to perform a long list of retrospective reviews, diverting agency staff and resources from working on more critical national priorities and politicizing the rulemaking process.

In addition, by expanding the scope of judicial review, UMITA marks an unprecedented and dangerous move away from traditional judicial deference to agency experts toward a system in which courts overturn highly technical, resource-intensive agency decisions without the expertise needed to make such decisions. Placing judges who have little to no economics or scientific expertise in the role of second-guessing agency cost-benefit and scientific analyses does nothing to improve such analyses. Instead, this new and inappropriate role for the courts is a recipe for more judicial activism, increased litigation, endless delays, and more uncertainty for both regulated parties and the public.

This legislation would fundamentally undermine the independence of independent agencies by subjecting them, with few exceptions, to the regulatory review office at OMB. The Office of

[2] https://www.citizen.org/documents/Regulations-Flowchart.pdf

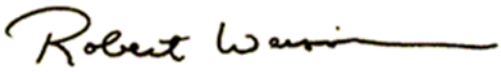
Information and Regulatory Affairs (OIRA) would be able to hold up any independent agency rule until OIRA is satisfied that the agency has complied with the numerous new analytical and cost-benefit requirements under H.R. 50. Thus, the bill would render these agencies independent in name only.

CSS firmly believes (and the public agrees) that we need a stronger system of public protections that holds corporations and industry accountable for reckless and negligent behavior along with robust and effective enforcement to deter future wrongdoing

The costs of deregulation should be obvious by now: the Wall Street economic collapse, various food and product safety recalls, and numerous environmental disasters demonstrate the need for a regulatory system that protects the public, not corporate interests.

Again, the Coalition for Sensible Safeguards urges you to vote against H.R. 50, the Unfunded Mandates Information and Transparency 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.