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July 27, 2015

Dear Senator:

We, the undersigned consumer, small business, labor, good government, financial protection, community, health, environmental, civil rights and public interest groups - **strongly urge you to oppose S. 1607, the Independent Agency Regulatory Analysis Act of 2015.** This legislation is likely to be marked up in the Senate Homeland Security and Government Affairs Committee soon; no hearing has been held on this broad reaching legislation which will empower the executive branch at the expense of the legislative branch. While S. 1607 appears to make modest changes in agency procedure, the proposed legislation actually:

- reduces the accountability of independent agencies to Congress;
- increases presidential influence over agency regulations and policies
- places new, unnecessary burdens on resource-strapped agencies;
- severely hampers the capacity of independent agencies to protect the environment, our financial system, and public health and safety

Congress created independent agencies to be independent of presidential control. This bill would permit any president, by executive order, to extend presidential oversight to these agencies, and would make them more vulnerable to political interference.

S. 1607 ignores the fact that independent agencies are differently structured than executive branch agencies, and often comply with rulemaking requirements strictly tailored to their respective missions. In particular, these agencies operate under a wide variety of statutory standards aimed at deploying the best available science and technology for protecting the public interest. This bill seeks to displace that regulatory design by forcing independent agencies to conduct cost-benefit analyses that are not only irrelevant, but also biased in favor of weaker protections.

The reach of S. 1607 is sweeping; given the jurisdiction of independent agencies, huge swaths of the economy will be affected by the law. The Securities and Exchange Commission (SEC) is charged with policing Wall Street. The Federal Communications Commission (FCC) oversees wireless communications, access to the Internet, and is supposed to ensure universal service is available in the digital age. The mission of the Consumer Financial Protection Bureau (CFPB) is to protect the financial security of American families and consumers from a wide range of predatory and deceptive lending practices. The Consumer Product Safety Commission (CPSC) oversees 15,000 different types of consumer products. The Equal Employment Opportunity Commission (EEOC) makes rules that implement congressional mandates outlawing discrimination based on gender, race and religion, disability, and genetic history. The Nuclear Regulatory Commission (NRC) oversees the safety of nuclear power plants.

S. 1607 would require independent agencies to submit a regulatory analysis to the White House Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA). The bill lays out a very long list of requirements for independent agencies to fulfill, including burdensome analytical constraints that will force the agencies to prioritize industry profits over public protections. These constraints include directions for independent agencies to design their rules so that they will "impose the least burdens" on businesses of "differing sizes," taking into account the "cumulative costs" of regulation, and to explain why the proposed regulation is "preferable to the identified potential alternatives."

Independent agencies often have very specific requirements when it comes to analyzing the impacts of their pending regulations. If they had to fulfill other reporting requirements from OIRA, it would increase their workload, waste valuable resources, and further delay protective safeguards, including rules that are needed to address new and emerging hazards, such as pipeline safety or post-Fukushima precautions for nuclear power plants.

While OIRA would not have the explicit power to block a regulation after it conducts its review, the additional oversight, and its impact on court challenges, would provide the White House with significant leverage for demanding changes in or delaying pending independent agency rules. The bill would give the president unprecedented authority to meddle in independent agency decision-making.

An independent agency's compliance or non-compliance with OIRA's requirements would not be subject to judicial review. But OMB's assessment of the agency's regulatory analysis, including its cost-benefit analysis, would be part of the rulemaking record, and thus subject to judicial review. Because the actual practice of cost-benefit analysis is full of uncertainties and indeterminacies that make it endlessly contestable, these requirements would provide wealthy special interests with a powerful tool for using endless delays to block important environmental and public health and safety rules and intimidating independent agencies.

This legislation also would affect all the work that OIRA does on regulatory review, making it much more difficult for its staff of 40 to complete regulatory oversight in a timely fashion for any rule.

S. 1607 would do nothing to streamline the regulatory process, to ease compliance burdens on any business, or to strengthen public protections. It would make independent agencies more vulnerable to political interference, and would greatly increase the workload of OIRA, further delaying crucially needed rules.

We strongly urge your opposition to this ill-advised proposal.

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Center for Effective Government
Center for Food Safety
Center for Justice & Democracy
Center for Responsible Lending
Center for Science in the Public interest
Citizens' Environmental Coalition
Citizens' Resistance At Fermi Two (CRAFT)
Coalition for a Nuclear Free Great Lakes
Communications Workers of America
Consumer Action
Consumer Federation of America
Consumers Union
Cornucopia Network/NJ/TN Chapter
Cumberland Countians for Ecojustice
Demos
Don't Waste Arizona
Don't Waste Michigan
Earthjustice
Economic Policy Institute
Food & Water Watch
Free Press Action Fund

Government Accountability Project
Greenpeace
ICWUC (International Chemical Workers Union Council)
Information Network for Responsible Mining
Institute for Agriculture and Trade Policy
International Brotherhood of Teamsters
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)
Kids In Danger
Michigan Safe Energy Future - Shoreline Chapter
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National Employment Law Project
National Fair Housing Alliance
National Treasury Employees Union
National Women's Law Center
Natural Resources Defense Council
Network for Environmental & Economic Responsibility Of United Church of Christ
NETWORK, A National Catholic Social Justice Lobby
Nuclear Information & Resource Service
Open Technology Institute
Philadelphia Area Project on Occupational Safety and Health (PhilaPOSH)
Physicians for Social Responsibility - Kansas City
Project on Government Oversight (POGO)
Protect All Children's Environment
Public Citizen
Public Knowledge
SafeWork Washington
San Luis Obispo Mothers for Peace
Sierra Club
South Carolina Small Business Chamber Of Commerce
The Main Street Alliance
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