



FACT SHEET | MAY 2017

Regulatory Accountability Act of 2017 (S. 951)

The Regulatory Accountability Act (S. 951) is one of the greatest threats to our system of public protections in decades. The bill would rig the rulemaking process in favor of deregulation, defeating continued enforcement of our public interest laws. The consequences of this legislation are incredibly broad – potentially impacting women’s health, consumer protection, food safety, financial reform, labor, the environment, disability rights, human rights, sustainable agriculture, rural development and more.

After the destruction wrought by the Congressional Review Act and President Donald Trump’s extreme “one-in, two-out” executive order on regulations, we cannot let the Regulatory Accountability Act permanently cripple federal agencies’ ability to enforce critical bedrock laws through strong and sensible regulations that protect the public. This will be a huge fight, requiring an all-hands-on-deck approach.

Putting Profits Ahead of the Public. The RAA is designed to block or weaken regulations that protect American workers, consumers and the environment. It forces agencies across the board to adopt “the most cost-effective” regulations for corporations, not the regulations that “maximize net benefits” to the public.

- This makes cost-benefit analysis, a flawed tool that undermines strong regulations, even worse by forcing regulators to put costs to industry before protecting the health and safety of workers and consumers, the environment and reforming Wall Street.
- We need strong and effective regulatory safeguards that maximize benefits for the American public. When those are missing and corporations cut corners, the public pays the price.

Adding Regulatory Delays. The RAA takes a rulemaking process that is already broken due to unacceptable delays and makes it much worse. It currently takes agencies an entire presidential term on average to produce and finalize the regulations that provide the greatest benefits to Americans.¹ Regulators have missed rulemaking deadlines half of the time over the past 20 years.²

- The RAA drowns agency regulators with up to 53 new requirements in the rulemaking process.³ These new requirements have been shown to lead to significant additional delays compared to rulemakings without these requirements.
- The RAA introduces a discredited form of rulemaking for the most important regulations that involve “adversarial hearings.” In the past, these chaotic trial-like hearings have led to enormous regulatory

¹ https://www.washingtonpost.com/news/fact-checker/wp/2017/05/03/budget-director-mulvaneys-claim-that-obama-imposed-regulations-without-considering-costs/?utm_term=.aa0b56041ab0

² <http://www.rstreet.org/news-release/federal-agencies-missed-half-their-congressional-deadlines/>

³ http://www.progressivereform.org/articles/RAA-S951_2017_Analysis_Full.pdf

delay and dysfunction – which is why they were abandoned decades ago. Regulatory experts recommend that “Congress never require trial-type procedures” for rulemaking.⁴

- The RAA provides no new funding for agencies to comply with the dozens of new mandates. Given that agency budgets have stagnated or declined for decades, this will make regulatory delay even worse.

Excluding the Public. The RAA rigs the regulatory process for big corporate interests. The numerous steps that the RAA adds to the rulemaking process means that corporate lobbyists, who already dominate the rulemaking process, will have even more opportunities to undermine public protections.

- “Adversarial hearings” cut the public out of the rulemaking process and put corporate interests in the driver’s seat. If used for the most important regulations, Washington insiders and corporate lobbyists will have far greater influence over new regulations than the public.
- The RAA makes “adversarial hearings” the exclusive record of decision-making for agencies when developing protections. This renders the public comment process largely irrelevant to rulemaking. It also vastly increases the influence of corporate lobbyists who have the resources to take advantage of these hearings to block or weaken regulations.

Increasing Court Interference. The RAA offers opponents of regulatory safeguards dozens more opportunities to attack and kill regulations in court. Under President Obama, Wall Street and big business blocked key health, safety and financial reforms by challenging agencies and rules in court.

- All 53 of the RAA’s new procedural and analytical requirements will be subject to judicial review, creating dozens of new ways for special interests to take agencies to court.
- The RAA allows courts to overturn rules by second-guessing agency cost-benefit analysis, scientific justifications and agency expertise generally.
- The RAA makes regulations that provide the greatest benefits to Americans more vulnerable in court by subjecting them to a higher “substantial evidence” standard.
- Regulatory experts agree that more judicial review of regulations leads to a slower rulemaking process.

Learn more about the Regulatory Accountability Act on the Coalition for Sensible Safeguards’ [RAA index page](#). For more information, please contact Amit Narang at anarang@citizen.org or James Goodwin at jgoodwin@progressivereform.org.

⁴ <https://www.acus.gov/sites/default/files/documents/72-5.pdf>