American Association for Justice * American Association of University Women (AAUW) * American Federation of State, County and Municipal Employees (AFSCME) * Center for Progressive Reform * Consumer Federation of America * Daily Kos * Earthjustice * Economic Policy Institute * Main Street Alliance * National Fair Housing Alliance * National LGBTQ Task Force Action Fund * Natural Resources Defense Council* NETWORK Lobby for Catholic Social Justice * Planned Parenthood Federation of America * Public Citizen * The Institute for Agriculture and Trade Policy * U.S. PIRG * Union of Concerned Scientists * United Steelworkers *Voices for Progress

July 06, 2016

RE: Midnight Rule Relief Act of 2016 (H.R. 4612) Section 6 of the Federal Information Systems Safeguards Act (H.R. 4361)

Dear Representative:

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 H.R. 4612, the Midnight Rules Relief Act of 2016.** This legislation is Section 6 of the *Federal Information Systems Safeguards Act* (H.R. 4361). H.R. 4612 would impose a blanket moratorium on any new proposed or final major regulations during the final months of this and future presidential administrations.

This bill would jeopardize public protections affecting public health and safety and the environment that often are years, if not decades, in the making. Worse, it would exempt attempts in the final days of an administration, through rulemaking, to "undo" or weaken existing regulations.

The proposed legislation is based on a fatally flawed premise: that regulations proposed or finalized during the so-called "midnight" rulemaking period – the period following the election and before the inauguration of the new president - are rushed and inadequately vetted.

In fact, the very opposite is true. There are currently dozens of public health and safety regulations that have been in the regulatory process for years or decades, including many that date from the Obama Administration's first term or implement laws passed in the first term. Indeed, many regulations predate this Administration entirely. Many of these regulations were mandated by Congress and have missed rulemaking deadlines prescribed by Congress.

A small sampling of long-delayed regulations that could be blocked by this moratorium illustrates the harmful impact of the bill.

- The pending Occupational Safety and Health Administration (OSHA) regulation protecting workers from exposure to the toxic carcinogen beryllium has been in the regulatory process for nearly *fourteen* years. The current beryllium standard originally dates from 1949 when the Atomic Energy Commission passed it, with OSHA adopting it 22 years later in 1971.

- Critical pipeline safety regulations have yet to be completed under the 2011 Pipeline Safety Act, an issue of urgent bipartisan concern given recent pipeline ruptures and leaks.

- In response to the West, Texas disaster in April 2013, President Obama asked the federal government to modernize its chemical safety rules. More than three years later, the Environmental Protection Agency

(EPA) is finally expected to finalize changes to the Risk Management Program rule, the major defense against catastrophic chemical disasters. The public, particularly fence-line communities – often poorer neighborhoods and communities of color who already bear the greatest burden of living next to polluting and high-risk facilities – look to the EPA to protect their health and safety.

- Approximately a quarter of required rulemakings under the Dodd-Frank Wall Street Reform Act have yet to be implemented over five and a half years after the law was enacted and nearly eight years since the financial crash. Among those rules are important measures to bring transparency to bank executive compensation and limits on excessive speculation that drives up energy prices for consumers.

Opponents of public safeguards claim without empirical support that regulations finalized near the end of presidential terms are rushed or do not involve diligent compliance with mandated rulemaking procedures. In fact, it is likely that compliance with the current and too lengthy regulatory process prevents agencies from finalizing new regulations efficiently, and thus earlier in presidential terms.

Because many of the regulations that Congress intended to provide the greatest benefits to the public's health, safety, financial security, and the environment currently take several years, decades in some instances, for agencies to implement due to the extensive and, in many cases, redundant procedural and analytical requirements that comprise the rulemaking process. The inefficiency of the current regulatory process, leading to a broken system of regulatory delays and paralysis across agencies, is the primary area in most of need of urgent attention and reform by this Committee.

Making matters worse, H.R. 4612 establishes a flagrant and unjustifiable double-standard in the regulatory process by exempting deregulatory rules from the moratorium, thereby prioritizing deregulation over protective measures. The practical effect of this exemption is to ensure that the legislation will apply only to administrations that attempt to regulate while creating a permanent loophole for administrations that favor deregulatory measures. This one-sided application violates foundational administrative law principles that require regulatory procedural mandates to apply to both deregulatory and pro-regulatory actions in a neutral and fair fashion.

Taking the claims of "midnight regulation" critics at face value, there is simply no principled basis for allowing deregulatory measures to be "rushed" through the process without "adequate vetting" while at the same time preventing agencies from finalizing and implementing public protections by falsely claiming that they did not receive adequate consideration.

This Administration ends on January 20, 2017. It is incumbent on them to fulfill their constitutional duty to implement the laws Congress has enacted until that date.

We strongly urge your opposition the Midnight Rule Relief Act of 2016 (H.R. 4612), Section 6 of the *Federal Information Systems Safeguards Act* (H.R. 4361), and oppose false and misleading rhetoric that bears no reality to the real problems of excessive and systemic delay in the regulatory process.

We strongly urge you to oppose H.R 4612.

American Association for Justice
American Association of University Women (AAUW)
American Federation of State, County and Municipal Employees (AFSCME)
Center for Progressive Reform
Consumer Federation of America
Daily Kos

Earthjustice
Economic Policy Institute
Main Street Alliance
National Fair Housing Alliance
National LGBTQ Task Force Action Fund
Natural Resources Defense Council
NETWORK Lobby for Catholic Social Justice
Planned Parenthood Federation of America
Public Citizen
The Institute for Agriculture and Trade Policy
U.S. PIRG
Union of Concerned Scientists
United Steelworkers
Voices for Progress