



January 4, 2017

Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, D.C. 20515

Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Ryan and Leader Pelosi:

We would not be the first to note that those who forget history are doomed to repeat it. Yet this Congress is well on the way toward doing precisely that if it adopts H.R. 26, the “Regulations From the Executive in Need of Scrutiny” (REINS) Act, and other deregulatory “regulatory accountability” legislation as its very first steps.¹ These deregulatory bills would, in practice, shut down the federal government’s regulatory agencies, leaving the American public exposed to the wide range of corporate and special interest exploitation that President Obama spent eight years fighting to undo.

Those who would have the public believe that regulation is the problem are pulling a fast one. In fact, the real problem is just the opposite: special interest capture of our regulatory system. The REINS Act and other “regulatory accountability” legislation magnify corporate capture exponentially, increasing corporate influence at the expense of protections that keep families safe and help everyday Americans get a fair shake.

Instead of tying the hands of agencies charged with protecting the American public, we urge you to fight for a regulatory system free from overwhelming corporate and special interest influence.

Deregulation: Memories Are Short Indeed

Just eight years ago, the United States emerged from a decade of deregulation. The result was not an economy that was stronger and growing, nor a people seeing higher wages and growing wealth. Instead, at the end of those eight years of conservative deregulatory government, the bottom fell out for millions of people. A global financial and foreclosure crisis costs millions their jobs and homes, creating lasting devastation for the U.S. economy and middle class.²

¹ Examples appear to include an updated version of the Regulatory Accountability Act of 2015 (H.R. 185) and the Midnight Rule Relief Act of 2016 (H.R. 4612). For a full list and analyses of bills in this category, see Coalition for Sensible Safeguards, Anti-Regulatory Legislation, available at <http://sensiblesafeguards.org/issues/anti-regulatory-legislation/>.

² Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, (U.S. Government Printing Office, January 2011, available at http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf); Better Markets, “The Cost of the Crisis,” July 2015, available at <https://www.bettermarkets.com/sites/default/files/Better%20Markets%20>

But financial deregulation was only one of several deregulatory disasters brought about by the eight years prior to the Obama Administration. Here are just a few others:

- Carbon pollution was on the rise, leading the United States and the rest of the world on a path toward dangerous climate change.³
- Tainted food exposed families and children to life-threatening illnesses on a far too regular basis.⁴
- Overtime standards slipped, leaving millions of working families struggling to make ends meet while having less time to spend with their children.⁵
- Construction workers suffered from preventable lung cancer deaths and chronic illnesses due to exposure to silica.⁶
- Same-sex partners were denied visitation rights to their hospitalized partners.⁷
- College students were scammed into taking on student loans at overpriced, low-quality for-profit colleges with little hope of repaying their debts.⁸
- Students of color were disproportionately identified as having special needs and students with disabilities were disciplined, expelled, and denied access to a high-quality education at higher rates in certain schools.⁹

[%20Cost%20of%20the%20Crisis.pdf](#)

³ U.S. Energy Information Administration, U.S. Energy-Related Carbon Dioxide Emissions, 2014, November 2015, available at <http://www.eia.gov/environment/emissions/carbon/>.

⁴ See for example Gardiner Harris, “Bush asks for extra funds to shore up food safety,” *New York Times*, June 10, 2008, available at <http://www.nytimes.com/2008/06/10/world/americas/10iht-health.4.13613321.html>; Jonathan Cohn, “Reagan, Bush, and Rotten Eggs,” *The New Republic*, August 25, 2010, available at <https://newrepublic.com/article/77209/tainted-eggs-blame-reagan-and-w-bush>; United States Department of Agriculture, “During Obama Administration, USDA Has Made Most Significant Food Safety Updates Since 1950s,” Press Release, July 5, 2016, available at <https://www.usda.gov/wps/portal/usda/usdahome?contentid=2016/07/0158.xml&contentidonly=true>.

⁵ Steven Greenhouse, “Controversial Overtime Rules Take Effect,” *New York Times*, August 23, 2004, available at http://www.nytimes.com/2004/08/23/us/controversial-overtime-rules-take-effect.html?_r=0; Ross Eisenbrey and Lawrence Mishel, “The New Overtime Salary Threshold Would Directly Benefit 13.5 Million Workers, How EPI’s Estimates Differ from the Department of Labor’s,” (Washington: Economic Policy Institute, 2015), available at <http://www.epi.org/publication/overtime-threshold-would-benefit-13-5-million/>

⁶ See Department of Labor, Occupational Safety and Health Administration, *OSHA’s Final Rule to Protect Workers from Exposure to Respirable Crystalline Silica*, March 2016, available at <https://www.osha.gov/silica/>.

⁷ Garrett Riou, “Hospital Visitation and Medical Decision Making for Same-Sex Couples” (Washington D.C.: Center for American Progress, April 15, 2014), available at <https://www.americanprogress.org/issues/lgbt/news/2014/04/15/88015/hospital-visitation-and-medical-decision-making-for-same-sex-couples/>; U.S. Department of Health and Human Services, “42 CFR Parts 482 and 485: Medicare and Medicaid Programs: Changes to the Hospital and Critical Access Hospital Conditions of Participation to Ensure Visitation Rights for All Patients,” *Federal Register* 75, No. 223 (November 19, 2010), available at <https://www.gpo.gov/fdsys/pkg/FR-2010-11-19/pdf/2010-29194.pdf>

⁸ Senate Committee on Health, Education, Labor, and Pensions, 112th Congress, “For Profit Higher Education: The Failure to Safeguard the Federal Investment & Ensure Student Success,” July 2012, available at <https://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74931/pdf/CPRT-112SPRT74931.pdf>.

⁹ U.S. Department of Education, “34 CFR Part 300: Assistance to States for the Education of Children With Disabilities; Preschool Grants for Children With Disabilities,” *Federal Register* 81, No. 243 (December 19, 2016), available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-19/pdf/2016-30190.pdf>

- Airline travelers suffered long delays on the runway and flights with dirty toilets.¹⁰
- Servicemembers and their families were victimized by high-cost predatory loans due to wide-open loopholes in a bipartisan law that was designed to protect them from unscrupulous financial actors.¹¹
- Workers saw their retirement savings threatened by high fees and misleading sales pitches marketed as personal financial advice.¹²

These are just some of the real life problems that the Obama Administration used regulation to address – but which would not, in all likelihood, have been possible had the REINS Act and other deregulatory laws been in effect.

Regulatory “Accountability”: Government Shut Down, Corporate Hand Over

The REINS Act, for example, eliminates the federal government’s wide range of legal authorities to adopt and implement on its own initiative all but the most miniscule regulations. These authorities have been in place for decades and are the foundation of modern government. By requiring an affirmative vote by Congress for a regulation to become effective, and allowing non-action to result, effectively, in a veto of those regulations, the REINS Act is for all intents and purposes a shutdown of the regulatory branch of the Federal government. Its authors know full well that Congress, notorious for its inability to act on many critically important national priorities, is going to bring these important regulatory actions to a grinding halt.

Congress is perfectly able to stop regulations it doesn’t like, both by vetoing them under congressional review laws today and simply by passing new laws that supersede regulations. What is insidious about the REINS Act is that it uses an obscure procedural tactic to relieve Senators and Representatives from having to take transparent and publicly accountable votes to do the dirty deeds of powerful corporate interests: gutting consumer protection, negating health and safety standards, canceling protections to stop chemicals from polluting our air and water, deregulating Wall Street, crushing fair pay and overtime protections for working families, and so much more. This should be revolting to every member of Congress that says he or she stands for transparency and accountability in government.

Just as troubling, the few regulations that do get through will have survived precisely because they will be watered down by the powerful corporate interests that dominate the barely legalized

¹⁰ Binyamin Appelbaum and Michael D. Shear, “Once Skeptical of Executive Power, Obama Has Come to Embrace It,” *New York Times*, Aug. 13, 2016, available at http://www.nytimes.com/2016/08/14/us/politics/obama-era-legacy-regulation.html?_r=0; U.S. Department of Transportation, “New DOT Consumer Rule Limits Airline Tarmac Delays, Provides Other Passenger Protections,” Press Release, December 21, 2009, available at <https://www.transportation.gov/briefing-room/new-dot-consumer-rule-limits-airline-tarmac-delays-provides-other-passenger>.

¹¹ Joe Valenti and Lawrence J. Korb, *Strengthening the Military Lending Act to Protect Troops from Predatory Practices*, (Washington: Center for American Progress, January 15, 2015), available at <https://www.americanprogress.org/issues/economy/news/2015/01/15/104597/strengthening-the-military-lending-act-to-protect-troops-from-predatory-practices/>.

¹² The White House, *The Effects of Conflicted Investment Advice on Retirement Savings*, February 2015, available at https://www.whitehouse.gov/sites/default/files/docs/cea_coi_report_final.pdf.

corruption of corporate and lobbyist support for Congressional campaigns.¹³ And even then, the weak regulations that do make it through Congress may never be implemented, as the judicial branch would be newly empowered to shoot them down on complex, technical grounds – once again handing power to very corporate and special interests. It’s more than just a vicious cycle; it’s a sham.

A quick look at the lobbying behind the REINS Act and its companion deregulatory bills shows that they are bought and paid for by corporate interests, like Koch Industries and electric utilities.¹⁴ But “benefits” won’t just be limited to weaker standards for the electric power sector – the kind that brought rolling blackouts to the western states, the Enron meltdown, air pollution from smokestacks, and a warming climate to the planet. Shutting down all regulation across the board will be a massive giveaway to big business. The long-term costs will, undoubtedly, be borne by everyday Americans in the form of more financial busts and bailouts, children killed by faulty products and tainted food, and more.

An incredibly wide array of public interest advocacy groups have lined up to oppose the REINS Act and other deregulatory legislation, including the Coalition for Sensible Safeguards, the AFL-CIO, American Sustainable Business Council, the Center for Effective Government, Consumer Federation of America, Consumers Union, National Resource Defense Council, Public Citizen, the Sierra Club, Union of Concerned Scientists, and many others.¹⁵

As noted, the REINS Act is only one of a series of disastrous deregulatory bills that have been proposed in recent Congresses. These other bills provide similar backdoor giveaways to corporate and special interests. The Coalition for Sensible Safeguards has an extensive list and detailed analyses.¹⁶

Going Forward: Strong Regulation Supports a Strong Economy, And More Needs to be Done to Reduce Corporate Capture of Regulators

One would think from listening to conservative radio and television that regulation had left the U.S. economy mired in a crisis. That is revisionist history. In fact, American families continue to rebuild after the economic collapse of 2008 which was a direct result of lax regulation and oversight. Over the last eight years, through pro-growth economic policies and smart

¹³ And while there are good and upstanding members of Congress and Senators that push for strong protections of the public interest, there are still far too many practical pressures from an increasingly corrupt campaign finance system – even on ordinarily public interest-minded members – to subject the regulatory process to greater Congressional interference, at least in the form of a veto by non-action.

¹⁴ Center for Responsive Politics, “Clients lobbying on H.R.427 : Regulations from the Executive in Need of Scrutiny Act of 2015,” available at <https://www.opensecrets.org/lobby/billsum.php?id=hr427-114>; Amit Narang and Taylor Lincoln, *Decoding the Bill: Lobbying Records Show That Electric Utility Industry Dominates Push for Deregulatory ‘REINS’ Legislation*, (Washington D.C.: Public Citizen, Aug. 2011), available at <http://www.citizen.org/documents/decoding-the-bill.pdf>.

¹⁵ For individual letters and additional resources, see Coalition for Sensible Safeguards, “REINS Act” available at <http://sensible safeguards.org/issues/reins-act/>.

¹⁶ See Coalition for Sensible Safeguards, Anti-Regulatory Legislation, available at <http://sensible safeguards.org/issues/anti-regulatory-legislation/>.

protections, the economy has improved significantly. Since the beginning of 2010, the U.S. economy has added an average of nearly 200,000 jobs per month.¹⁷ 2015 saw the largest annual percent increase of median household income on record, the first increase since 2007.¹⁸ Poverty was reduced dramatically: 2015 was the largest single year decline in the poverty rate since 1999 and one of the largest in 50 years.¹⁹ Far more needs to be done to raise wages and rebuild wealth, but as CAP has outlined, cutting regulation has little to do with that imperative. Instead, consumer and business demand should be boosted through robust monetary and fiscal policy and restored worker rights, standards, and voice; long-term corporate investment should be increased by re-regulating share buybacks, enforcing antitrust laws, and adopting new regulations to enhance competition; global trade should be accompanied by more regulation to level the playing field and boost American exports; and much more.²⁰

Even those members of the Midwest working class who have been the subject of so much focus since the election are not the victims of regulation. In fact, had a Consumer Financial Protection Bureau been in place to implement the safe and sound mortgage rules that were on the books *before* the financial crisis, the massive housing-related slump that has devastated many parts of the Midwest may well have been avoided.²¹ As CAP has outlined, that slump played a significant role in flipping counties from one party to the other from 2012 to 2016.²²

Small businesses will also be among the victims of deregulation. Small businesses are directly impacted by insufficient regulations. Without proper regulation big businesses can undermine market standards, and secure bailouts that no small business could ever obtain. Do not be fooled, deregulation is not for small business.

Deregulation will also harm communities of color and economically disadvantaged areas. Without strong regulation, unscrupulous lenders will target communities of color and disadvantaged areas with mortgage products and financial services that strip wealth rather than build it. As a result of the financial crisis, relative wealth gains in communities of color were

¹⁷ Center on Budget and Policy Priorities, "Chart Book: The Legacy of the Great Recession," December 7, 2016, available at <http://www.cbpp.org/research/economy/chart-book-the-legacy-of-the-great-recession>.

¹⁸ U.S. Census Bureau, "Income and Poverty in the United States: 2015" September 13, 2016, available at <http://www.census.gov/library/publications/2016/demo/p60-256.html>.

¹⁹ Rebecca Vallas and Katherine Gallagher, *New Census Data Show Historic Gains on Poverty. Here's How to Keep the Momentum Going*, (Washington: Talk Poverty, September 14, 2016), available at <https://talkpoverty.org/2016/09/14/new-census-data-show-historic-gains-poverty-heres-keep-momentum-going/>.

²⁰ Carmel Martin, Andy Green, Brendan Duke, *Raising Wages and Rebuilding Wealth*, (Washington: Center for American Progress, Sept. 8, 2016), available at <https://www.americanprogress.org/issues/economy/reports/2016/09/08/143585/raising-wages-and-rebuilding-wealth/>.

²¹ Financial Crisis Inquiry Commission, *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, (U.S. Government Printing Office, January 2011), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf.

²² Michela Zonta, Sarah Edelman, and Colin McArthur, *The Role of Midwestern Housing Instability in the 2016 Election*, (Washington: Center for American Progress, November 29, 2016), available at <https://www.americanprogress.org/issues/economy/news/2016/11/29/293816/the-role-of-midwestern-housing-instability-in-the-2016-election/>.

largely reversed. By 2013, African-Americans' median net worth was only one-thirteenth that of whites, and Latinos' median net worth was one-tenth of whites.²³

Nor can we simply rely on the states to protect the public. Under right-wing and industry-funded pressure, many states have aggressively cut their own regulations and privatized services. Federal regulators thus remain centrally important. Situations like the drinking water disaster in Flint potentially exist around the country, especially in aggressively deregulated states. Without strong federal regulators to maintain high standards, further disasters will undoubtedly ensue. Working class families will, sadly, pay the price, as big business gets off the hook.

Rather than instituting a shutdown of the federal regulatory process and turning over the keys to lobbyists and corporations, Congress should reduce corporate influence over our regulatory process, boost public interest voices, and enable regulatory agencies to act more effectively in the public interest overall. CAP,²⁴ the Roosevelt Institute,²⁵ and others offer important steps towards doing so.

We strongly urge you and your colleagues to reject the REINS Act and other similar “regulatory accountability” legislation. Congress should do its job and protect the public, not hand the government over to corporate and special interests.

Sincerely,

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²³ Rakesh Kochhar and Richard Fry, “Wealth inequality has widened along racial, ethnic lines since end of Great Recession,” (Washington D.C.: Pew Research Center, December 12, 2014,) available at <http://www.pewresearch.org/fact-tank/2014/12/12/racial-wealth-gaps-great-recession/>

²⁴ Ganesh Sitaraman, “Reforming Regulation: Policies to Counteract Capture and Improve the Regulatory Process” (Washington D.C.: Center for American Progress, November 1, 2016), available at <https://www.americanprogress.org/issues/economy/reports/2016/11/01/291499/reforming-regulation/>.

²⁵ K. Sabeel Rahman, “Rethinking Regulation,” (New York: Roosevelt Institute, April 19, 2016,) available at <http://rooseveltinstitute.org/rethinking-regulation/>