

January 30, 2017

RE: Use of the Congressional Review Act to repeal public protections

Dear Senator,

We, the undersigned consumer, small business, labor, good government, financial protection, community, health, environmental, civil rights and public interest groups urge you strongly to oppose the use of the Congressional Review Act (CRA) to repeal public protections that are critical to the public's health and safety, the environment, and a stable financial system that works for Main Street and not Wall Street.

The CRA is an unreasonably blunt instrument that threatens to deny consumers tens of billions of dollars in pocketbook savings over the next few decades from rules that were fully vetted and considered over a long period of time. These rules enjoyed substantial support across all stakeholder communities.

By promising to use the CRA to indiscriminately block a variety of crucial public safeguards, the leadership of the 115th Congress has made clear that catering to special interests take precedence over public protections to ensure:

- clean air, water and climate change action,
- much-needed reforms to Wall Street to prevent the next financial crisis,
- banks are held accountable when they deceive customers,
- workplaces are safe from toxic chemicals,
- non-discrimination and fair pay are guaranteed for all,
- affordable access to broadband and secure communications,
- natural resource revenues are used to benefit citizens,
- heavy duty truck rule and air conditioner rule that increase efficiency and save consumers money,
- common-sense gun control measures for individuals with severe and disabling mental health issues,
- people can see the health care provider of their choice,
- paid sick days for employees of federal contractors, and
- schools are held accountable for fraud and students are not left stuck under mountains of debt when schools defraud them or abruptly close.

It is irresponsible for Congress to use the CRA to repeal important public protections that are supported by bipartisan majorities of the public.¹ The CRA allows Congress to overturn a recently finalized rule—major or otherwise—through an expedited process called a Resolution of Disapproval. In the U.S. Senate, these resolutions only require a simple majority vote to adopt and then cannot be filibustered or amended.

Once a rule is overturned, it may be difficult for an agency to advance the objectives of the overturned rule in the future. The CRA allows agencies to finalize a rule in the future, but only if that rule is not “substantially similar” to the one that was disapproved. Because the scope of the “substantially similar” language has not yet been tested in any meaningful way, we have massive uncertainty around necessary future regulations that implement laws passed by Congress and address pressing health, safety, financial and environmental risks to consumers and the public.

¹ <http://www.epi.org/files/2016/LRP-EWG%20Messaging%20Handout.f19-Dec-16.pdf>

If Congress decides to use the CRA to repeal public protections that save lives, protect our environment, prevent discrimination or put money back into the pocket of consumers, those who voted for repeal in Congress will be responsible for the consequences to their constituents. In the absence of strong and effective public protections, Congress will revert back to a system of “self-regulation,” which shifts costs on to the public. As a result, regular Americans wind up paying the price.

Those in Congress pushing to use the CRA rely on two demonstrably false claims. First, critics of public protections claim that potential CRA challenges in the beginning of the 115th Congress will only apply to “midnight” regulations that were rushed at the end of the Obama administration. The truth is that virtually all of these standards are better characterized as “marathon” regulations since they were under development for years, if not decades, and are thus the very opposite of rushed. Rules issued at the end of administrations take longer to finish than rules issued outside of this period.² Such rules also underwent longer, not shorter, review by the U.S. Office of Information and Regulatory Affairs (OIRA).

Additionally, critics claim that regulations cost jobs and repealing them will create jobs. The truth is that all studies which linked new regulations to job loss claims have been debunked by independent experts and none of the numerous assertions in the past about job losses due to regulations have come true. For example, the recently finalized U.S. Department of Interior’s (DOI) stream protection rule is crucial to making sure streams around coal mining projects are not impacted by toxic coal waste that can then pollute downstream water sources. Critics of the rule, including U.S. Sen. Mitch McConnell (R-Ky.), have claimed it will lead to job losses in the coal industry. Yet, even Sen. McConnell conceded that repeal of regulations such as the stream protection rule will not bring back coal jobs because market forces are pushing the energy industry away from coal.³

Voters in this election did not vote for deregulation of Wall Street, more polluted air and water, inaction on climate change, unsafe workplaces, fewer protections against discrimination and unequal pay, more food safety scandals, the gutting of consumer protections, and more. In fact, this election was a referendum on the need to hold big interests accountable. Unfortunately, using the blunt instrument of the CRA rejects the electoral message and moves in the wrong direction by rolling back and undermining public protections.

We strongly urge you to reject the use of the CRA to undermine critical consumer, public and environmental protections. Please do not repeal rules that enforce the law and protect public health, safety, financial security and our environment.

Thank you,

9to5, National Association of Working Women
Action on Smoking & Health
AFL-CIO
AFSCME
Alaska Wilderness League
Alliance for Appalachia
American Association for Justice
American Association of University Women (AAUW)
American Family Voices
American Federation of Teachers
American Forests

² <http://www.citizen.org/documents/Midnight-Regs-Myth.pdf>

³ <http://www.kentucky.com/news/politics-government/article114197923.html>

Americans for Democratic Action (ADA)
Americans for Financial Reform
Arkansans Against Abusive Payday Lending
Asbestos Disease Awareness Organization (ADAO)
Catskill Citizens for Safe Energy
Center for Biological Diversity
Center for Digital Democracy
Center for Economic Integrity
Center for Justice & Democracy
Center for Large Landscape Conservation
Center for Media Justice
Center for Progressive Reform
Center for Responsible Lending
Center for Science in the Public Interest
Civil Justice, Inc.
Clean Air Task Force
Clean Water Action
Connecticut Association for Human Services
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumer Law Office of William E. Kennedy
Consumers for Auto Reliability and Safety
Corporate Accountability International
Corporation for Enterprise Development (CFED)
Daily Kos
Dann Law Firm
Demand Progress
Donovan Litigation Group, LLC
Earthjustice
EarthRights International
Earthworks
Economic Policy Institute Policy Center
Environment America
Environmental Integrity Project
Equal Rights Advocates
Equal Rights Advocates
Florida Alliance for Consumer Protection
Floyd W. Bybee, BYBEE LAW CENTER, PLC
Food & Water Watch
Free Press Action Fund
GLMA: Health Professionals Advancing LGBT Equality
Global Witness
GOLDSMITH & ASSOCIATES, LLC
Green America
Greenpeace
Health Justice Project
Higher Ed, Not Debt and Generation Progress
Housing and Economic Rights Advocates (HERA)
Indiana Consumer Law Group
Institute for Agriculture and Trade Policy

Interfaith Center on Corporate Responsibility
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)
Janelle Mason Mikac, J. Hegg Law, PLLC
Jared M. Hartman, Esq., Hartman Law Offices Inc., Semnar & Hartmen, LLP
The Leadership Conference on Civil and Human Rights
League of Conservation Voters
League of Women Voters of the United States
Leonard Gryskewicz, Jr., Sabatini Law Firm, LLC
Lyons Law Firm, P.A.
Main Street Alliance
Mark F. Anderson | Anderson, Ogilvie & Brewer LLP
MFY Legal Services, Inc.
Micah S. Adkins, The Adkins Firm
National Association for College Admission Counseling
National Association of Consumer Advocates
National Black Justice Coalition
National Center for Law and Economic Justice
National Center for Lesbian Rights
National Center for Transgender Equality
National Coalition Against Domestic Violence
National Coalition for the Homeless
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Council of Jewish Women
National Council of La Raza
National Employment Law Project
National Employment Lawyers Association
National Fair Housing Alliance
National Law Center on Homelessness & Poverty
National LGBTQ Task Force Action Fund
National Parks Conservation Association
National Partnership for Women & Families
National Women's Law Center
Natural Resources Defense Council
Nature Abounds
New America's Open Technology Institute
North Carolina Justice Center
Oceana
People's Action Institute
Physicians for Social Responsibility
Planned Parenthood Federation of America
Progressive Congress Action Fund
Public Citizen
Public Knowledge
Publish What You Pay - United States
River Network
Secular Human Rights Worldwide
SEIU
Tennessee Citizen Action
The Greenlining Institute

The National Consumer Voice for Quality Long-Term Care
The Wilderness Society
TURN-The Utility Reform Network
Union of Concerned Scientists
United Church of Christ, OC Inc.
US PIRG
Virginia Citizens Consumer Council
Voices for Progress
West Virginia Center on Budget and Policy
Western Environmental Law Center
Women Employed
Woodstock Institute