



OPPOSE THE “REGULATORY ACCOUNTABILITY ACT,” WHICH WOULD MAKE INDUSTRY *LESS* ACCOUNTABLE TO THE PUBLIC

The so-called Regulatory Accountability Act (RAA) is designed to make it harder to set regulations to protect the public by tilting the entire regulatory system significantly toward special interests. The bill would erect new barriers – some of them perhaps insurmountable – to developing regulations to protect health and safety. The bill applies to all regulations (not just environmental ones). In many cases, the bill would effectively rewrite significant provisions in bedrock law, including the Clean Air Act. This bill would fundamentally prevent the government from exercising its responsibility to protect the public. *The Regulatory Accountability Act would make the public less safe.*

Despite its name, the RAA is not designed to make agencies more accountable. Instead, it adds redundant layers of red tape to delay or kill important public protections for the sake of narrow special interests. Nothing in the bill would compel agencies to address urgent matters such as high-risk or predatory lending practices or food-borne illness; rather the bill would make it much more difficult, costly, and time-consuming for agencies to protect against these and other hazards.

The most damaging aspects of the Regulatory Accountability Act include:

- The bill would effectively amend statutes that currently require health standards to be based on science alone without consideration of cost. (Under these laws, cost can still be considered in deciding *how* to meet the standard.) The Clean Air Act, for example, does not allow cost to be taken into consideration when deciding what level of certain pollutants is unhealthy. Similarly, the recently passed reform of the Toxic Substances Control Act forbids costs from being considered when deciding what level of chemical exposure is unhealthy. The RAA would overturn these provisions, meaning health standards would be determined not by what science says a dangerous substance does to the human body, but by considering the cost to industry.
- The bill enables industry to repeatedly delay and complicate rulemaking by requiring agencies to analyze “any substantial alternatives” submitted by “interested persons” and by making it difficult for agencies to reject petitions for hearings on proposed rules. This invites special interests to intentionally waste agency resources through unnecessary hearings and proposals solely submitted to sidetrack the process.

- The bill could block many future rules because it uses language that could prevent courts from ever finding that a regulation met the bill's requirements. At issue is language that requires agencies to adopt the "least costly rule" they considered in most cases. No one wants excessively costly rules, but the "least costly" language is similar to a provision that led courts to throw out regulations against asbestos, a known carcinogen, with no clear path to rewrite the regulation. In fact, Congress recently voted overwhelmingly, with industry support, to repeal the language that blocked the asbestos rules.
- The bill allows Federal courts without expertise on technical issues to substitute their judgment for those of the expert federal agencies. These agencies are staffed with career subject matter experts that are deeply knowledgeable of the background, context, and history of agency actions and policy rationale. For this reason, courts have long deferred to agency experts who are in the best position to carry out the statutes. The RAA would end this and allow far less experienced judges to second guess expert opinion. This essentially sanctions judicial activism.
- The bill sidetracks agencies with new and unnecessary analytic tasks many of which are purposely beyond the ability of economists to complete or satisfy. These are unnecessary additional hurdles to the already existing patchwork of laws and executive orders that require substantial analysis and encourage minimizing even the most indirect regulatory costs to small businesses, regardless of consequences.
- The bill prevents critical public protections from moving ahead until all actions seeking judicial review of the public protection are decided. Even if nobody challenges the action, the bill would delay until there is no longer even a potential for judicial review. While the bill only targets high cost rules, it does not allow consideration of whether benefits exceed those costs, which is almost always the case. Thus, the bill allows well financed special interest to delay hugely beneficial rules through endless litigation. This not only endangers the public, it also encourages litigation and wastes judicial resources.
- The bill requires agencies to report a range of data that is generally made public as part of the rulemaking process, but then automatically delays the effective date of a rule until the data is available for 6 months. This is simply an effort to build additional delay into the system.

The Regulatory Accountability Act provides no accountability to the American public. Instead, it allows polluting industries and special interests to game the system and escape accountability for any harm they inflict. It makes it incredibly difficult, if not impossible, to secure new public protections and arms industry with numerous tools to avoid their legal obligations.