

Economic Policy Institute

May 16, 2017

Senator Ron Johnson
Chairman
Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC

Senator Claire McCaskill
Ranking Member
Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC

Dear Chairman Johnson and Ranking Member McCaskill:

On behalf of the Economic Policy Institute Policy Center (EPI-PC), we write to express our strong opposition to the Regulatory Accountability Act (S. 951), or “RAA,” introduced April 26, 2017 by Senator Rob Portman. The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-income workers in economic policy discussions.

S. 951 would fundamentally alter the regulatory process by requiring agencies to place cost considerations ahead of all others. The act also gives regulated entities the opportunity to manipulate the rulemaking process by requiring that agencies analyze “any substantial alternatives” submitted by “interested persons.” Let us be clear: were the Regulatory Accountability Act to pass, corporate interests would benefit, and workers, consumers, and the environment would lose.

The bill provides corporate interests with unprecedented power to interfere with and delay the regulatory process, and prioritizes industry profits over health, safety, and other public goods. Opponents of the bill include numerous public health, financial protection, civil rights, environmental, and labor groups. In addition to all of these concerns, we urge you to oppose this bill because of the catastrophic impact the RAA would have on protecting worker safety and basic labor standards.

While much has been said about the value and burden of regulations, they are merely an administrative tool aimed at achieving a policy goal that was legislated by Congress—such as safe workplaces, or secure retirement. Senator Portman, the bill’s cosponsor,

claims that the RAA would make regulations “smarter and more effective,” and would “modernize the regulatory process.”¹ In fact, the RAA would paralyze the regulatory process and provide opportunities for special interests – primarily moneyed corporate lobbyists with the resources to engage – to influence the process.

The RAA poses a serious threat to important worker protections. Consider the impact the RAA would have on rulemaking under the Occupational Safety and Health Act of 1970, which established the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA). Through the OSH Act, Congress requires that OSHA issue standards to reduce risks posed by workplace hazards, including workplace exposure to harmful chemicals. In recent years, research showed that roughly 2.3 million workers in construction, fracking, and other industries were being exposed to cancer-causing silica dust in their workplaces.² In June 2016, OSHA issued a regulation limiting workers’ exposure to silica dust.

This regulation – the implementation of which the Trump administration has now delayed for ninety days in the construction industry – was estimated to provide net benefits of \$7.7 billion annually. Each year, it would save over 600 lives and prevent more than 900 new cases of silicosis. The dangers of exposure to silica have been known for decades – President Franklin Roosevelt’s Labor Secretary, Frances Perkins, raised the issue with stakeholders more than 80 years ago. The standards in place before the 2016 rule was issued were based on research from the 1960s, and had not been updated to reflect more recent scientific evidence that those limits did not adequately protect workers’ health. And yet, the silica rule took more than 5 years to develop and adopt, after OSHA provided official listening sessions, public notice and comment periods, and hearings, under the *current* process.

S. 951 would require that agencies adopt rules that are “most cost-effective.” This seems benign and sensible at first glance, but in fact this is a fundamentally flawed way to direct policymaking in the public interest. The term “cost-effective” is not defined in the bill, but the text in section 553(f)(1)(B) suggests it is equivalent to “least costly” by setting forth exceptions under which a “more costly” rule could be adopted. Regulations establishing workplace safety standards save lives, prevent injuries, and benefit public health. The “silica rule” described earlier may have up-front costs as businesses invest in safety equipment to reduce workers’ exposure to harmful silica dust. But the benefits to society in terms of reduced illness and saved lives over decades would vastly outweigh those costs.

¹ Senator Rob Portman. [“Press Release: Portman, Heitkamp Introduce the Bipartisan Senate Regulatory Accountability Act.”](#)

² Occupational Safety and Health Administration. [“OSHA’s Final Rule to Protect Workers from Exposure to Respirable Crystalline Silica.”](#)

Other proponents of the RAA, including the U.S. Chamber of Commerce, also claim that regulations “kill jobs.” However, research on the relationship between employment and regulations generally find that regulations have a modestly positive or neutral effect on employment.³ While regulations sometimes reduce employment in one area over time, they usually create jobs in another. We also know that the *lack* of sensible regulations – and of the inability to efficiently and thoughtfully engage in rulemaking to be responsive to new or emerging challenges - can lead to economic catastrophe. Deregulation and lax enforcement played a major role in the subprime mortgage crisis and the financial and economic crisis that ensued when the housing bubble burst, costing nearly 9 million jobs in 2008 and 2009. And of course, lack of sensible regulations for workers – to protect safety on the job, our paychecks, our retirement savings, and more – can have devastating impacts on individual workers and their families.

We urge you, and all Members of the Committee, to oppose S. 951, which would permanently cripple federal agencies’ ability to protect the public interest.

Sincerely,

Heidi Shierholz

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Economic Policy Institute Policy Center

³ Josh Bivens, Economic Policy Institute. [“Testimony before the Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law.”](#) John Irons and Isaac Shapiro, Economic Policy Institute. [“Regulation, employment, and the economy: Fears of job loss are overblown.”](#)