

Workers' health, safety, and pay are among the casualties of Trump's war on regulations

A deregulation year in review

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On December 14, 2017, President Trump held a press conference to take credit for the “most far-reaching regulatory reform in history,” claiming his administration has been responsible for more than 1,500 cancelled or delayed regulatory actions.¹ He is expected to tout this number again at his upcoming State of the Union address to Congress. While the specific figure Trump cited at the press conference has been called into question, there is no disputing that Trump and congressional Republicans have engaged in an unprecedented attack on regulations over the last year, rolling back rules that were intended to protect workers, consumers, and public health.

The Economic Policy Institute's Perkins Project on Worker Rights and Wages has been tracking Trump and Congress's decimation of federal labor standards through deregulation since January 2017.² Regulations play an essential role in protecting workers—ensuring safe workplaces and fair pay and protecting workers' rights to organize and join a union so they can bargain collectively with their employers. But not only do regulations provide essential protections; research shows that federal regulations in fact provide an overall net benefit to the economy—contrary to what its opponents would have people believe.

In this report, we review what the research says about the benefits of regulations, and we shine a spotlight on Trump and Congress's most egregious deregulatory actions—actions that advantage corporate interests and those at the top of the income distribution at the expense of low- and middle-income workers.

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The facts about regulation

Regulations put laws into action, protecting America's workers

Regulations are simply the rules of the game. Congress passes laws, and then federal agencies set the rules for how those laws are followed. For example, if Congress passes a law directing the Occupational Safety and Health Administration (OSHA) to ensure “safe and healthful working conditions” in America’s workplaces, OSHA responds by promulgating specific rules that employers must follow in order to establish safe and healthful workplaces for their employees.

Regulations not only provide essential protections, but their economic benefits generally outweigh their costs

Opponents of regulations routinely emphasize the costs associated with regulations while ignoring their benefits. Rhetoric attacking regulations generally alleges that regulations are overly burdensome for employers and cost jobs. However, research shows that federal regulations in fact provide an overall net benefit to the economy and that they have a modestly positive or neutral effect on employment.

Federal regulations currently provide a net benefit to society of over \$100 billion per year

To assess whether a regulation should be undertaken, agencies consider a comprehensive set of benefits and costs over a broad time horizon. For example, regulations establishing workplace safety standards save lives, and environmental protection regulations conserve natural resources and improve public health, which may provide benefits for generations. Safety regulations may require substantial upfront investments in safety equipment, but those investments pay off over the long term through a reduction in illnesses like lung cancer and through lives saved over decades. In addition, the need for the safety equipment creates jobs for the people producing the equipment.

Each year the Office of Management and Budget (OMB) reports to Congress on the costs and benefits of federal regulations, with a focus on regulations for which agencies are able to estimate and monetize both costs and benefits. In its most recent report, OMB found that during the last administration, from January 21, 2009, to September 20, 2015, the estimated annual net benefit (benefits minus costs) of major federal regulations was between \$103 and \$393 billion.³ In other words, federal regulations are providing a net benefit to society of over \$100 billion per year. And these numbers are consistent with prior OMB reports, as described below.

The ratio of benefits to costs is about 7 to 1

OMB reviewed major regulations from 2000 to 2010 and estimated that the average annual benefit of major regulations is about seven times the cost.⁴ OMB's findings are even more significant when you consider studies showing that government regulators generally overestimate costs.⁵ Also, many benefits are never monetized, but almost all costs are.

Regulations have a modestly positive or neutral effect on employment

Research on the relationship between employment and regulations generally finds that regulations have a modestly positive or neutral effect on employment.⁶

How do regulations create jobs? When regulations reduce jobs in one area, they create jobs in another. For example, factories making lead paint shut down after regulations banning lead paint were issued in the late 1970s, but enterprises manufacturing lead-free alternatives arose in their place. And some of the older factories hired people to retool their machinery to begin manufacturing lead-free paint.

Mass layoffs are not caused by regulations, but *lack of regulations can lead to job loss*

“Mass layoff events” are incidents in which at least 50 unemployment insurance claims are filed against an employer during a five-week period. According to the latest data available (2011 and 2012), employers cite regulations as the reason for mass layoffs in just a tiny share of mass layoff events—*one-quarter of one percent*.⁷

On the other hand, the *lack* of sensible regulations can lead to economic catastrophe and the loss of millions of jobs. The belief that financial markets can “self-regulate” led to a wave of deregulation and lax enforcement beginning in the late 1970s and persisting right up to the financial crisis that precipitated the Great Recession of 2007–2009. Deregulation and lax enforcement played a major role in the housing bubble and the financial and economic crisis that ensued when the bubble burst.⁸ Nearly nine million jobs were lost in 2008 and 2009. In the wake of this crisis, officials in charge of the nation's two main financial regulatory agencies stated that self-regulation had failed. As Christopher Cox, then-chairman of the Securities and Exchange Commission, stated, “We have learned that voluntary regulation does not work. . . . The lessons of the credit crisis all point to the need for strong and effective regulation.”⁹

Trump's year of deregulation

Aside from a tax measure that overwhelmingly favored the wealthy, the first year of the Trump administration and the Republican-controlled Congress saw little in the way of substantive legislative accomplishments. However, the Trump administration and congressional Republicans have been successful in repealing many existing regulations and making it more difficult for government agencies to effectively regulate industries. One of Trump's first actions after taking office was to issue an executive order requiring federal agencies to identify at least two existing regulations to "repeal" when proposing a new regulation.¹⁰ In December, Trump boasted that his administration had exceeded that goal, repealing 22 regulations for every new regulation proposed.¹¹ While these claims have not been verified, the Trump administration's Office of Information and Regulatory Affairs has reported that federal agencies have issued 67 deregulatory actions and 3 regulatory actions during fiscal year 2017;¹² it has also reported that a total of 1,579 regulations were withdrawn or delayed (635 withdrawn, 244 "made inactive," and 700 "added to the Long Term list").¹³

Congressional Republicans have been instrumental in supporting this deregulatory effort. In the first 90 days of the congressional session, the House and Senate used Congressional Review Act (CRA) resolutions—which provide for a quick process to overrule recent regulations—to overturn 14 Obama-era rules.¹⁴ Prior to the 115th Congress, the CRA had only been successfully used to repeal a rule once, in 1996.¹⁵

An examination of the regulations repealed or rescinded reveals that many of the rules that were eliminated provided important protections to our nation's workers. President Trump and congressional Republicans have blocked regulations that protect workers' pay, safety, and rights to organize and join a union. By blocking these rules, the president and Congress are raising the risks for workers while rewarding companies that put their employees' health, safety, and paychecks at risk.

This section lists the casualties of Trump's war on regulations.

Deregulation casualty #1: Workers' health and safety

Rolling back a rule that required employers to keep accurate records of workplace injuries and illnesses

Congressional Republicans approved and President Trump signed a Congressional Review Act resolution blocking the Workplace Injury and Illness recordkeeping rule, which clarifies an employer's obligation under the Occupational Safety and Health Act to maintain accurate records of workplace injuries and illnesses.¹⁶

Recordkeeping is about more than paperwork. If an employee is injured on the job (for example, is cut or burned, or suffers an amputation), contracts a job-related illness, or is killed in an accident on the job, then it is the employer's duty to record the incident and work with the Occupational Safety and Health Administration to investigate what happened. Failure to keep injury/illness records means that employers, OSHA, and workers cannot learn from past mistakes and makes it harder to prevent the same tragedies from happening to others. By signing the resolution to block this rule, Trump gave employers a get-out-of-jail-free card when they fail to maintain—or when they falsify—their injury/illness logs. Workers who could have been saved from preventable accidents on the job will have to pay the price with their health or even their lives.

The history of the rule is as follows: Since the early 1970s, the Occupational Safety and Health Administration has required many employers to keep careful records of workplace injuries and illnesses and to maintain those records for five years. If an employer's injury/illness logs are inaccurate—for example, if a worker is injured on the job and the employer fails to log it—OSHA can issue a citation and fine.

For 40 years, from the early 1970s through 2012, OSHA had been able to issue those citations at any time within the five-year period that the illness/injury record was required to be kept. But in 2012, the D.C. Circuit Court of Appeals ruled that, if a worker was injured, OSHA had only six months to check an employer's log to make sure the injury was recorded and to issue a citation if it was not.¹⁷ That meant that even though employers are supposed to maintain injury/illness records for five years, an employer is off the hook if OSHA inspectors do not catch the employer's record omission within the first six months after the injury. Since OSHA inspections generally take longer than six months, the court's ruling made it a lot harder for OSHA to penalize companies for bad recordkeeping. One of the judges on the court, though, wrote that OSHA could issue a new rule clarifying employers' recordkeeping duties.

In response, OSHA promulgated a rule to allow OSHA to resume what it had already been doing for 40 years: cite employers for failure to log injuries/illnesses anytime within the entire five-year period that the records must be kept.¹⁸ This rule created no new recordkeeping requirements for employers; it just allowed OSHA more time to do its work to ensure that employers are held accountable for protecting workers' health and safety.

Delaying a rule requiring employers submit injury and illness records electronically to OSHA

OSHA's electronic recordkeeping rule is an important supplement to the recordkeeping rule described above. The Obama-era rule does not create any new reporting requirements for employers—it simply requires employers who are currently required to keep OSHA injury and illness records to submit their records to OSHA electronically, making them publicly available. Improving data collection and dissemination of injury and illness incidents in America's workplaces will allow OSHA, employers, employees, employee representatives, other government agencies, and researchers to identify patterns so that workplace hazards can be addressed and worker injuries and illnesses

prevented. And because this information will be easily accessible to a broad audience on OSHA's website, employers are more likely to comply with workplace safety rules to protect their workers—knowing that they'll have to answer to the public if they don't.¹⁹

According to the final rule, employers covered by the rule were required to submit their 2016 records electronically by July 1, 2017. But delays by OSHA pushed back the compliance date to December 2017, nearly six months after the original date.²⁰ Most troubling, though, was OSHA's November 2017 announcement that it intends to "reconsider, revise, or remove portions of that rule in 2018."²¹

In 2016 alone, well over 5,000 workers died on the job.²² If OSHA rescinds or weakens this rule in 2018, it will mean that patterns of unsafe working conditions may be harder to detect, making workplaces even more dangerous for workers.

Delaying a rule protecting workers from exposure to harmful silica dust

After delaying enforcement for months, the Department of Labor announced in September 2017 that it would begin enforcing a rule to protect construction workers from occupational exposure to crystalline silica; however, enforcement of provisions protecting general industry and maritime workers will not begin until June 2018.²³ This Obama administration rule lowered workers' permissible exposure limit to deadly crystalline silica dust. The rule is made up of two permissible exposure standards, one for construction and one for general industry and maritime. The rule became effective June 23, 2016, and enforcement was originally scheduled to begin on June 23, 2017, but was delayed by the Trump administration. OSHA began enforcing most provisions of the standard for construction on September 23, 2017, and has announced that it will begin enforcing most provisions of the standard for general industry and maritime on June 23, 2018.

OSHA issued this rule to reduce workers' exposure to cancer-causing respirable crystalline silica. Studies have linked exposure to silica to lung cancer, silicosis, chronic obstructive pulmonary disease, and kidney disease. About 2.3 million workers are exposed to respirable crystalline silica in their workplaces, including 2 million construction workers who drill, cut, crush, or grind silica-containing materials such as concrete and stone.²⁴ Responsible employers have been protecting workers from harmful exposure to silica for years, using widely available equipment that controls silica dust with a simple water spray to wet the dust down or a vacuum system to contain the dust. OSHA estimates that the rule will save over 600 lives and prevent more than 900 new cases of silicosis each year, once its effects are fully realized.²⁵ It is past time for the Trump administration to start taking workers' sides by enforcing this rule to protect working people's lives and livelihoods.

Rolling back protections for workers exposed to beryllium

On January 9, 2017, the Occupational Safety and Health Administration published its final rule on occupational exposure to beryllium and beryllium compounds, which was

promulgated to protect employees exposed to beryllium from significant risks of chronic beryllium disease and lung cancer.²⁶ Under the Trump administration, OSHA proposed to rescind provisions of the rule intended to protect workers in the construction and shipyards sectors.²⁷ DOL announced that OSHA will not enforce these January 9, 2017, shipyard and construction standards until further notice while this new rulemaking is underway.²⁸

About 62,000 workers are exposed to beryllium in their workplaces, including approximately 11,500 construction and shipyard workers.²⁹ The Trump administration's proposal would rescind important protections in the new rule, which was issued after decades of effort and study that uncovered overwhelming evidence that OSHA's 35-year-old beryllium standard did not protect workers from severe lung disease and lung cancer.³⁰ Under Trump's proposal, employers would no longer have to measure beryllium levels or provide medical testing to workers at risk of fatal lung disease. This proposal is another example of Trump's willingness to abandon workers' rights to come home safe and healthy at the end of the day, in favor of corporate profits.

Proposing to weaken the inspection rule for metal and nonmetal mines

In September 2017, the Trump DOL's Mine Safety and Health Administration (MSHA) proposed to weaken metal/nonmetal mine safety inspection requirements that went into effect at the end of January 2017. Under the Obama-era rule, mine safety inspectors were allowed to conduct a safety examination at any time, including *during* the miners' shifts, which allows inspectors to spot unsafe practices and stop them before someone gets hurt. But in response to pressure from mine operators, Trump's appointees have issued a proposed rule that would permit a mine safety inspection to occur only *before* or *right as* workers are beginning their shift in the mine.³¹

The proposed rule puts workers in danger and allows unscrupulous mine operators to conceal safety hazards. If mine safety inspectors are only permitted to evaluate a mine before or at the beginning of a shift, the safety inspectors will never discover unsafe working conditions or unsafe mining procedures that occur during the shifts themselves. A mine operator could easily tell his employees to wait until after the inspection at the beginning of the shift before commencing unsafe mining practices for the remainder of their workday.

In addition, the Obama-era rule required mine operators to record all hazardous conditions found by inspectors, even if they are immediately corrected. Under the Trump administration's proposed rule, only hazardous conditions that are not immediately corrected would have to be recorded. This would significantly cut down on the evidence and documentation needed by MSHA, workers, and mine operators to identify and fix patterns of unsafe mining practices.

This proposal to prohibit mine safety inspectors from performing critical workplace examinations means more miners will be exposed to unsafe work conditions. From January 2010 through mid-December 2015, 122 miners were killed in 110 accidents at

metal and nonmetal mines.³² Another 16 died in 2016,³³ and another 13 died in 2017.³⁴

Considering a proposal to increase poultry line speeds, endangering workers

The Trump Department of Agriculture has indicated that it is open to relaxing existing regulations of line speeds in poultry plants, placing poultry slaughter and processing workers at increased risk of injury, illness, or death.³⁵ Regulations issued in 2014 stated that line speeds in poultry plants should not increase beyond the already fast rate of 140 birds per minute.³⁶ Under existing regulations, the poultry industry's own data show that poultry workers are injured at twice the rate of the national average. And these statistics likely undercount the number of injuries. The USDA itself has recognized "systemic underreporting of work-related injuries and illnesses" that makes it difficult to accurately evaluate the extent to which poultry workers suffer injuries.³⁷ Regardless, it is clear that poultry workers face great risk in their jobs and that increasing line speeds would only increase those risks.

Proposing to weaken protections for farmworkers

The Trump Environmental Protection Agency proposed weakening regulations protecting farmworkers from harmful effects of pesticide exposure.³⁸ The regulations prohibit workers younger than 18 from handling pesticides, require that other workers receive annual safety training on handling pesticides, and require employers to post warning signs around pesticide-treated areas.³⁹ The EPA proposed these standards in 2014, and many of the protections have already gone into effect.⁴⁰ The EPA itself has estimated that roughly 2,000–3,000 cases of acute pesticide exposure occur among farmworkers every year,⁴¹ with health effects ranging from rashes, nausea, blisters, and respiratory issues to Parkinson's disease.⁴² Rolling back these standards exposes farmworkers to additional risks of illness and death.

Deregulation casualty #2: Workers' wages

Proposing to make it legal for employers to take workers' hard-earned tips

On December 5, the Trump administration took its first major step toward allowing employers to legally take tips earned by their employees. The current restrictions on "tip pooling," instituted by the Department of Labor in 2011, allow restaurants to pool the tips servers receive but stipulate that the employer may only share pooled tips with other workers who customarily receive tips, such as bussers and bartenders.⁴³ Employers are prohibited from retaining any of the pooled tips themselves. But the Trump Department of Labor has proposed rescinding those restrictions.⁴⁴

At first glance, the proposed rule seems benevolent: restaurants would be able to pool the tips servers receive and share them with untipped employees, such as cooks and

dishwashers, in addition to tipped employees. But, crucially, the new rule would mean that employers are not *required* to distribute pooled tips among their workers: as long as tipped workers earn at least the minimum wage, *the employer can legally pocket their tips*. And basic economic logic dictates that it is highly unlikely that back-of-the-house workers will get more pay. There is currently no limit to what these workers can be paid, so employers are already paying their nontipped workers what they need to pay to attract workers willing to work in those jobs. Thus, if employers do share some tips with them, the extra cash would likely be offset by a reduction in their base pay, leaving their take-home pay unaffected.

We estimate that under Trump’s proposed rule, employers will likely pocket \$5.8 billion of their workers’ hard-earned tips each year—around \$1,000 a year per tipped worker.⁴⁵ And because women are both more likely to be tipped workers and to earn lower wages, this rule would disproportionately harm them. We estimate that of the \$5.8 billion, nearly 80 percent—\$4.6 billion—would be taken from women working in tipped jobs.⁴⁶

Taking money out of workers’ pockets by weakening the overtime rule

In 2016, after years of work, the Department of Labor (DOL) updated the “overtime pay” rule, raising the salary threshold below which workers are automatically eligible for overtime pay to \$47,476⁴⁷ and giving 12.5 million people new or strengthened overtime protections.⁴⁸ Because the threshold had not been adequately updated over the last few decades, it had eroded dramatically with inflation. The percentage of full-time salaried workers automatically eligible for overtime based on their pay dropped from more than 60 percent in 1975 to less than 7 percent in 2016.⁴⁹ Prior to the 2016 rule, low-level managers at retail and fast-food outlets who made only \$23,660 a year—lower than the poverty rate for a family of four—could be required to work long hours without any extra pay for the extra hours worked.⁵⁰

The 2016 updated overtime pay rule would have helped ensure that middle-class Americans who work hard get a fair return on that work—putting money in people’s pockets and giving them the chance to spend more time with their families. However, the Obama administration DOL’s overdue attempt to restore lost pay to America’s workers was blocked in the courts by corporate interests, and, on October 30, 2017, the Trump administration made clear that it would not defend the rule. The Trump administration has signaled that it is going to undermine the rule, once again siding with corporate interests over workers.⁵¹

Deregulation casualty #3: Workers’ savings

Rolling back rules that made it easier for workers to save for retirement

On April 13, 2017, Trump signed two resolutions blocking DOL rules that assisted local

governments that create Individual Retirement Account (IRA) programs for private-sector workers. Many municipalities have sought to establish initiatives requiring employers that do not offer a workplace retirement plan to automatically enroll workers in payroll-deduction IRAs administered by the local government. The DOL rule paved the way for these initiatives by simply clarifying that these plans are not covered by the Employee Retirement Income Security Act (ERISA), the federal law governing private-sector employer-sponsored plans, addressing localities' concerns that they may be subject to certain liabilities under ERISA.⁵² The Government Accountability Office warned that such legal uncertainties could delay or deter states' efforts to expand coverage.⁵³

By blocking this rule, Trump blocks a path for retirement savings for the roughly 55 million private-sector wage and salary workers ages 18–64 who do not have access to retirement savings plans through their employers. Local payroll-deduction savings initiatives encourage workers to contribute to tax-favored IRAs through automatic deduction. These savings initiatives provide important assistance to workers in saving for retirement, as few workers contribute to a retirement plan outside of work. Without innovations like these, fewer workers will be able to afford retirement.⁵⁴

Delaying a rule providing protections for retirement savers

The Trump administration's Department of Labor is actively working to weaken or rescind the "fiduciary" rule.⁵⁵ The latest step in these efforts is an 18-month delay of key provisions of the rule.⁵⁶ The rule simply requires financial advisers to provide what most clients probably already think they are receiving: advice about their retirement plans untainted by conflicts of interest.⁵⁷ It would prohibit common practices such as steering clients into investments that provide lower rates of return for the client but higher commissions for the adviser. The financial industry strongly opposes this rule because it wants to preserve a system that allows financial advisers to give their clients advice that is in the adviser's interest rather than the client's.

Conflicted advice leads to lower investment returns,⁵⁸ causing real losses for the clients who are victimized.⁵⁹ We estimate that retirement savers who will get or have gotten bad advice during the various delays imposed by the Trump administration will lose a total of \$18.5 billion over the next 30 years.⁶⁰ Further, the rule is being delayed with the clear intent of *never* fully implementing it. Instead, the Trump administration is buying time until they can permanently dismantle key elements of the rule. People who have worked hard to save for retirement need and deserve the fiduciary rule to be fully implemented and enforced.

Deregulation casualty #4: Workers' safety nets

Rolling back a rule ensuring that unemployment workers can access earned benefits

Congressional Republicans approved and Trump signed a resolution that blocked a regulation establishing rules for drug testing applicants for unemployment insurance (UI) benefits.⁶¹ As part of the deal, states were permitted to drug test only those UI applicants who had been discharged from their last job for drug use or whose only suitable work opportunity is in a field that regularly drug tests workers. The rule directed the secretary of labor to determine which occupations regularly drug test workers. The Department of Labor issued a rule defining such “occupations” as those that are required, or may be required in the future, by state or federal law, to be drug tested.⁶²

This rule would have clarified circumstances under which individuals filing for unemployment benefits may be subjected to drug testing. Mandatory drug testing for UI applicants is arguably unconstitutional and unnecessarily stigmatizes jobless workers. Conditioning receipt of UI benefits on this type of requirement fundamentally challenges our nation’s UI system, creating the perception that workers do not earn unemployment insurance. But workers *do* earn the right to unemployment insurance benefits through their prior participation in the workforce. Workers only access their earned benefits when they lose their jobs and are actively working to find new ones; this insurance is intended to help cover workers’ basic needs during this gap period between jobs. The repeal of this rule will hurt workers when they are at their most vulnerable, while benefiting companies seeking to reduce their tax obligations.

Deregulation casualty #5: Pay equity

Putting the EEO-1 pay data rule on hold

The EEO-1 pay data collection rule was an Obama-era rule intended to identify and fix pay disparities in America’s workplaces. The rule would have required large companies (with 100 or more employees) to confidentially report to the EEOC information about what they pay their employees by job category, sex, race, and ethnicity.⁶³ The goal of this rule was to help employers, the public, and the government identify and remedy gender and racial/ethnic pay inequities. But the Trump administration has put the EEO-1 pay data collection rule on hold.⁶⁴

By putting the equal pay data rule on hold, the Trump administration is making it harder for employers and federal agencies to identify pay disparities and root out employment discrimination. Further, this decision ignores what the research shows—inequities have gotten worse, not better. Even among workers with the same level of education and work experience, black–white wage gaps are larger today than nearly 40 years ago⁶⁵ and gender pay disparities have remained essentially unchanged for at least 15 years.⁶⁶ In both cases, discrimination has been shown to be a major factor in the

persistence of those gaps.

When this rule was first announced, former EEOC Chair Jenny R. Yang stated, “Collecting pay data is a significant step forward in addressing discriminatory pay practices. This information will assist employers in evaluating their pay practices to prevent pay discrimination and strengthen enforcement of our federal anti-discrimination laws.”⁶⁷ By staying this rule, the Trump administration has shown that it does not value equal pay for equal work.

Proposing to roll back an SEC rule that requires disclosure of CEO-to-employee pay ratios

The Trump administration has proposed rolling back the 2015 Securities and Exchange Commission rule requiring that public companies disclose the ratio of compensation of its chief executive officer (CEO) to the median compensation of its employees.⁶⁸ The rule was mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.⁶⁹

Rolling back the rule will simply deny workers and shareholders information necessary for them to evaluate CEO compensation and performance and determine the fairness of their own compensation structure. This allows corporate interests to operate behind closed doors with less accountability to the public and to workers. CEO pay continues to be very, very high and has grown far faster in recent decades than typical worker pay. CEO compensation has risen by 807 or 937 percent (depending on how it is measured—using stock options granted or stock options realized, respectively) from 1978 to 2016. In 2016 CEOs in America’s largest firms made an average of \$15.6 million in compensation, or 271 times the annual average pay of the typical worker.⁷⁰

Deregulation casualty #6: Workers’ rights to organize and join a union

Rolling back a transparency rule that would allow workers to know when their employer has hired outside anti-union consultants during a union election

The rights of most workers to organize and bargain collectively with their employers are protected under the National Labor Relations Act (NLRA) of 1935. But when workers seek to exercise these rights, employers often hire union avoidance consultants—also known as “persuaders”—to orchestrate and roll out anti-union campaigns. Union avoidance consultants may engage with workers directly, for example, delivering their anti-union presentations in face-to-face meetings. Or they may influence workers indirectly by providing management with ammunition for campaigns, including anti-union flyers, speeches, videos, and other materials.⁷¹ The Trump DOL has proposed rolling back an important rule (the “persuader rule”) that ensured workers would have accurate information about their employer’s use of anti-union consultants surrounding union

election campaigns.⁷²

The rule Republicans are rolling back closed a massive reporting loophole that has allowed employers to keep indirect persuader activity secret. Disclosure of the large amounts of money employers pay to anti-union consultants—sometimes hundreds of thousands of dollars—would allow workers to know whether the messages they hear are coming directly from their employer or from a paid, third-party consultant.⁷³ Seeing how much money employers are paying out to these consultants would provide important perspective on employers' frequent argument that they cannot afford to pay union wages, and it would give workers the information they need to make informed choices as they pursue their right to organize. This disclosure rule would have helped level the playing field for workers who want to join together to negotiate with their employers for better pay and working conditions.

Almost half (48 percent) of workers polled said they'd vote to create a union in their workplace tomorrow if they got the chance.⁷⁴ However, the intensity with which employers have opposed organizing efforts,⁷⁵ and the continuing tilt of the legal and policy playing field against workers seeking to bargain collectively, have led to a decline in union membership. DOL's rescission of the persuader rule is just one more indicator that the Trump administration is working on behalf of corporate interests to further rig the system against working people.

Rolling back rules to modify and streamline union elections

On December 12, 2017, the National Labor Relations Board (NLRB) took the first step toward rolling back a 2014 rule that simplified the union election process by which working people can join together to bargain for better wages and working conditions. The NLRB announced the issuance of a Request for Information (RFI) asking for public input on the 2014 election rule—indicating that Trump's appointees to the NLRB plan to alter the rule.⁷⁶ The election rule, which has been upheld by a federal court of appeals, includes a series of reforms that eliminate unnecessary delay in the election process and modernize agency procedures.

The NLRB protects the rights of most private-sector employees to join together, with or without a union, to improve their wages and working conditions. Employees covered by the National Labor Relations Act are guaranteed the right to form, join, decertify, or assist a labor organization; to bargain collectively through representatives of their own choosing; or to refrain from such activities. The NLRB's decision to reexamine the rule demonstrates that the Trump board majority has little interest in maintaining an efficient election process for this nation's workers. Ironically, the NLRB will accept electronic responses to the RFI for the election rule that, if rolled back, will affect the ability of workers to file electronic election petitions.

Deregulation casualty #7: Consequences for

employers who violate workers' rights

Rolling back the Fair Pay and Safe Workplaces rule

Senate Republicans approved a resolution that President Trump signed that rolled back a rule that required federal contractors to disclose workplace violations—specifically violations of federal labor laws and executive orders that address wage and hour, safety and health, collective bargaining, family medical leave, and civil rights protections.⁷⁷ The rule had directed that such violations be considered when awarding federal contracts. In addition, the rule had also mandated that contractors provide each worker with written notice of basic information including wages, hours worked, overtime hours, and whether the worker is an independent contractor. Finally, the rule had prohibited contractors from requiring workers to sign predispute arbitration agreements for discrimination, harassment, or sexual assault claims.

Currently, there is no effective system to ensure that taxpayer dollars are not awarded to contractors who violate basic labor and employment laws. As a result, the federal government awards billions of dollars in contracts to companies that break the law.⁷⁸ This rule would have helped ensure that federal contracts (and taxpayer dollars) are not awarded to companies with track records of labor and employment law violations. Workers, taxpayers, and law-abiding contractors would have benefited from this rule. Contractors with records of cutting corners by violating labor and employment laws will benefit from the congressional resolution blocking this rule. What's more, by repealing this rule, the federal government will be rewarding companies that force workers to waive their rights to go to court and instead sign agreements requiring them to resolve claims of sexual harassment or discrimination in private arbitration.

Conclusion

Regulations establish the rules of the game and assure important protections for working people. Corporations and wealthy special interests have demonstrated that—if there's nothing stopping them—they will do what they can to squeeze out more profits for themselves, even if it means jeopardizing workers' health and safety and retirement funds. The Great Recession is proof that it is dangerous to assume that corporations and Wall Street will police themselves. American workers deserve a fair system—with rules that serve their interests as opposed to deregulating to rig the system so that corporate interests can rake in ever-larger profits at the expense of workers. The Trump administration and congressional Republicans have spent an enormous amount of time and political capital in their first year in control doing exactly that—by painting regulations as the “problem.” It is time to end this deception and return to defending the rules that protect workers, consumers, and public health.

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