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April 14, 2015

The Honorable Bob Goodlatte
Chairman
House of Representatives
Judiciary Committee
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
House of Representatives
Judiciary Committee
Washington, DC 20515

Dear Representative:

Public Citizen strongly urges members of the Judiciary Committee to **oppose** both the REINS Act (H.R. 427) and the ALERT Act (H.R. 1759). The REINS Act represents the most radical threat to our government's ability to protect the public from harm in generations. The bill will delay or shut down the implementation of critical new public health and safety protections, thereby making big business and industry even less accountable to the public.

Enactment of The REINS Act would effectively end rulemaking given existing legislative gridlock and political polarization. REINS would require both houses of Congress to approve a major rule, with no alterations, within a 70 day window. If both chambers are unable to approve a major rule, it will not take effect and is tabled until the next Congressional session. The impact on all major rules, including the large number of non-controversial rules agencies produce every year, will be dramatic. Currently, it takes years for a federal agency to produce necessary public safeguards to address obvious safety gaps that have endangered and harmed the public. Indeed, this unfortunate reality was once again reinforced just this week. It took 5 years after the massive British Petroleum Oil Spill in the Gulf for the Department of Interior this week to produce a *proposed* rule regulating blowout preventers to address one of the main causes of the explosion and ensuing oil spill at the Deepwater Horizon oil rig. It is unacceptable for our government to take five years to develop *final* safety standards to protect the public from another environmental disaster on the scale of the BP Oil Spill, and yet it has taken that long just to produce a *proposed* safety standard. Sadly, this story of regulatory delay is the norm, rather than the exception. REINS would do nothing to speed up this process. Instead, it would allow nothing more than Congressional inaction to block such a common-sense, non-controversial rule.

In fact, Congress already has the first and last word when it comes to agency rulemaking, making the REINS Act needless and redundant. Under the current decades-old framework, agencies can only exercise their authority if first delegated by Congress in authorizing legislation. Any agency attempt to overstep these bounds will result in judicial scrutiny and risk reversal of the agency action. And under the Congressional Review Act, Congress already has the authority to review and nullify a rule by passing a resolution of disapproval. Requiring both chambers of Congress to approve major regulations means, in real terms, that one chamber will have virtual and unilateral veto power over any major regulation the majority of that chamber opposes.

The REINS Act would force Congress to refight its previous debates, wasting time and money, and paralyzing the agencies and Congress itself. The REINS Act would potentially require dozens of additional votes in both chambers of Congress every year. None of these votes would involve new legislation that benefits our country or resolves current and pressing public policy issues. Instead, these numerous new votes would all focus on regulations implementing legislation already passed by Congress and enacted into law. For example, during the calendar year 2014, federal agencies finalized 80 major rules. During that same period, the House of Representatives was in session for 135 legislative days. This means that the REINS act would have potentially resulted in 80 additional votes in the House during 2014, or a minimum of one every two days. Given that recent Congresses have not been noted for their speedy resolution of complicated issues, it is highly implausible to expect that Congress will be able to meet this significant additional workload. The result will be many vital new major rules that are blocked by unavoidable Congressional inaction.

Simply put, the REINS Act is not a proposal to improve or streamline the regulatory system. Instead, it would drastically undermine our country's precious system of public safeguards. Allowing Congress to have the final say on regulations under the REINS Act approval mechanism would make the regulatory process far more political, allowing lobbyists, special interest groups, and campaign contributions to shape a rule.

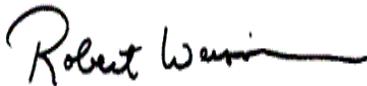
Public Citizen also strongly urges committee members to oppose H.R. 1759, the ALERT Act. This bill claims to improve transparency in the rulemaking process and raise public awareness of regulatory activity, both of which are laudable aims, but does so in an unnecessarily and unjustifiably biased and unbalanced manner. Specifically, Section 651(2)(B) of the bill requires agencies to disclose categories of rules by cost, but has no corollary requirement for agencies to disclose their rules' benefits to the public, either in monetary terms or lives saved and injuries avoided. This will give an incomplete and misleading impression, thereby undermining rather than advance transparency goals, particularly since government figures consistently show that the benefits of public health and safety regulations heavily and consistently outweigh costs, across both Republican and Democratic administrations. Likewise, Section 652 of the bill requires agencies to disclose instances in which agencies "repealed a rule," "reduced the scope of a rule," "reduced the cost of a rule," or "accelerated the expiration date of a rule." Missing are companion disclosure requirements that would inform the public of when agencies maximize the effectiveness or benefits of their rules by strengthening them to fully protect the public or when agency efficiency in meeting or exceeding statutory deadlines to put health and safety standards in place.

Rigging disclosure requirements to present a one-sided and asymmetric view runs counter to fundamental transparency principles and is designed to advance an anti-regulatory agenda.

Making matters worse, Section 653 of the ALERT Act prevents crucial regulations from taking effect until agencies have complied with the biased transparency requirements detailed above for a period of six months. In short, the Act imposes an additional six month delay, with limited exceptions, on rules before they can take effect. As detailed above, more delays is the last thing our system of public protections need. Moreover, a requirement that imposes delay but does nothing to advance transparency is inappropriate, at best, in this legislation.

Congress should be searching for ways to address regulatory inertia and paralysis by ensuring federal agencies efficiently and effectively enforce the laws designed to protect our workplaces, food safety, air and water quality, financial security and much more, not throwing up roadblocks to sensible safeguards that protect the American public. Public Citizen strongly opposes both the REINS Act (H.R. 427) and the ALERT Act (H.R. 1759) and urges Judiciary Committee members to **vote against it**.

Sincerely,



Robert Weissman,
President



Amit Narang,
Regulatory Policy Advocate