



Asthma and Allergy Foundation of America



January 11, 2017

Dear Representative:

The undersigned public health and medical organizations urge you to oppose H.R. 5, the Regulatory Accountability Act of 2017. The bill is a sweeping attack on the federal government's ability to set lifesaving public health protections.

H.R. 5 would undermine proven public health protections by requiring federal standards to be based on industry cost estimates, not what best protects the public. For example, H.R. 5 would force EPA and FDA to prioritize the historically overstated estimates of costs to industry over scientific evidence and public health.

- Under the Clean Air Act, Congress required the U.S. Environmental Protection Agency (EPA) to set standards that indicate what level of pollution is harmful to human health, based solely on health and medical science, and then work with states to implement cost-effective cleanup measures to meet those standards.
- With the Family Smoking Prevention and Tobacco Control Act, Congress tasked the Food and Drug Administration (FDA) with protecting the public from the proven dangers of tobacco use, including death from lung disease, cancer and heart disease, based on what is appropriate for the protection of the public health – not the costs to the tobacco industry.

H.R. 5 would also impose dozens of procedural requirements that would increase costs of critical safeguards, or worse, delay or completely block lifesaving protections before they can be implemented. Federal rules already go through extensive review, expert input, and public comment before they are finalized. The numerous additional analysis, reporting, and planning requirements imposed by this bill, some of which duplicate existing requirements, would hinder agencies from setting safeguards under the law to protect the public.

H.R. 5 would also automatically halt enforcement of "high-impact" rules until all litigation on them is resolved. The courts already have the ability to stay a rule in litigation if they determine that the party opposing the rule is likely to succeed on the merits. Automatically staying

enforcement of all "high-impact" rules creates an incentive for frivolous lawsuits simply to avoid having to comply with the rule – potentially for years. The result: Americans would suffer illnesses and premature deaths that could have been prevented, and communities and industry that seek certainty to know how to proceed would be left in unnecessary limbo for far too long.

H.R. 5 would also reverse a longstanding court decision that recognizes the unique experience federal agencies have with these often-complex issues. Sometimes Congress intentionally writes a statute to be flexible or ambiguous, recognizing that it does not have the expertise to anticipate or address every contingency. Federal agencies have extensive experience with the statutes they administer, as well as superior expertise on the scientific and technical matters that are at the heart of the actions carried out by the agencies.

H.R. 5 would mandate that the courts give less judicial deference to agencies with the relevant subject matter expertise. If passed, this bill would require judges to make decisions far outside their areas of expertise and with limited access to information, rather than continue to defer to the professional and informed decisions of scientists, physicians, economists, engineers, and other professional experts that work within these agencies. This unprecedented and dangerous move reverses traditional judicial deference that has been successful and effective for more than three decades.

Our organizations urge you to oppose H.R. 5. This bill would make it harder to protect the health of Americans from the dangers of air pollution and tobacco by allowing polluters and the tobacco industry to influence and delay critical health safeguards.

Sincerely,

Allergy & Asthma Network
Alliance of Nurses for Healthy Environments
American Heart Association
American Lung Association
American Public Health Association
American Thoracic Society
Asthma and Allergy Foundation of America
Health Care Without Harm
National Association of County & City Health Officials
Physicians for Social Responsibility
Public Health Institute
Trust for America's Health