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LEGISLATIVE ALERT!

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November 1, 2011

The Honorable Lamar S. Smith
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Minority Member
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith and Ranking Minority Member Conyers:

The AFL-CIO strongly opposes the Regulatory Accountability Act (H.R. 3010), which will be marked up later this week. This legislation would upend more than 40 years of labor, health, safety and environmental laws and threaten new needed protections.

The Regulatory Accountability Act (RAA) is drafted as an amendment to the Administrative Procedure Act (APA), but it goes far beyond changing procedures for rulemaking. The RAA acts as a "supermandate" overriding the requirements of landmark legislation such as the Occupational Safety and Health Act and Mine Safety and Health Act. The bill would require agencies to adopt the least costly rule, instead of the most protective rule as is now required by the OSH Act and MSH Act. It would make protecting workers and the public secondary to limiting costs and impacts on businesses and corporations.

The RAA will not improve the regulatory process -- it will cripple it. The bill adds dozens of new analytical and procedural requirements to the rulemaking process, which will add years to the process. The development of major workplace safety rules already takes 6 – 10 years; the RAA will further delay these rules and cost workers their lives. H.R. 3010 also provides more opportunities for opponents to challenge needed safeguards and expands judicial review of agency rulemaking processes and decisions.

provide for public hearings, such as OSHA and MSHA, the bill would substitute formal rulemaking for the development of all new rules, overriding the effective public participation processes conducted by these agencies.

H.R. 3010 would subject all agencies – including independent agencies like the Securities and Exchange Commission, the National Labor Relations Board (NLRB), Consumer Product Safety Commission (CPSC), and the Consumer Financial Protection Bureau (CFPB) to these new analytical and procedural requirements. It would be much more difficult for agencies to develop and issue new financial reform rules and consumer protection rules required under recently enacted legislation.

The manager's amendment that has been released by the majority does nothing to cure the problems with this bill. If anything the amendment makes the bill even worse by expanding its burdensome analytical and procedural requirements to additional rules and guidance documents, and making agency actions under the Information Quality Act judicially reviewable.

The Regulatory Accountability Act would further tilt the regulatory process in favor of business groups and others who want to stop regulations, and make it much more difficult for the government to protect workers and the public. The AFL-CIO strongly opposes H.R. 3010 and urges committee members to vote against this damaging legislation.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Samuel', written in a cursive style.

William Samuel, Director
Government Affairs Department

c: Members of the House Committee on the Judiciary