



# THE WAR ON REGULATION

## *A Guide to the Ongoing Assault on Public Protections to Boost Corporate Profits*

View this report online at [SensibleSafeguards.org/WarOnRegs](https://SensibleSafeguards.org/WarOnRegs).



**About Us.** The Coalition for Sensible Safeguards (CSS) is a national alliance of [more than 160](#) consumer, labor, scientific, research, faith, community, environmental, small business, good government, public health and public interest groups – representing millions of Americans. We are joined in the belief that our country’s system of regulatory safeguards should secure our quality of life, pave the way for a sound economy and benefit us all. CSS is led by an executive committee chaired by Public Citizen. Current executive committee member organizations include the AFL-CIO, the Center for Progressive Reform, Consumer Federation of America, the Economic Policy Institute, the Natural Resources Defense Council and the Union of Concerned Scientists. Visit our website [SensibleSafeguards.org](https://SensibleSafeguards.org) and follow us on Twitter [@regsrock](#).

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*Our nation's system of public protections is under attack as never before. This war on regulation – backed by private industry and carried out by the Trump administration and conservatives in Congress – has many fronts. This guide provides an overview of each major front of attack and provides links to relevant resources and further reading. The attacks detailed here target not only our nation's landmark regulatory safeguards; they also aim to shut down the system for establishing and enforcing those safeguards while undermining our government's role as a protector of the American people and our shared interests.*

*This report covers many developing stories and will be updated as quickly as possible to reflect the latest news. It was last updated on June 5, 2018.*

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## **INTRODUCTION BY U.S. SEN. ELIZABETH WARREN**

Strong public protections empower people to live, work and do business freely and safely. They provide the basic framework that permits commerce to flourish – to ensure that what we’re promised is what we get. That a gallon of gas is really a gallon – and not almost a gallon – of gas. That the pills labeled as antibiotics really are antibiotics.

Regulations keep thieves out of our pockets – they make it illegal to steal your purse on Main Street or your pension on Wall Street. And regulations level the playing field for everyone competing for our business. Because of these government rules, good companies that do right by their customers don’t have to compete against cheaters.

What America has accomplished through strong public protections is an amazing story. Start with worker protections. Industrialization transformed the American economy, and it generated enormous wealth – but it also wreaked havoc on workers and their families. In response, our country put in place new guardrails – wage standards, workplace safety rules, the right to organize – so giant corporations could no longer exploit workers to boost their own profits.

But America didn’t stop at worker protections. In the wake of the Great Depression, our country created new rules to stabilize our financial system, to end the boom-and-bust cycles that devastated our economy. With midcentury cities smothered with smog and families facing polluted water, we set up the U.S. Environmental Protection Agency to protect public health and safety.

So where are the cheerleaders for strong government rules today? As the Coalition for Sensible Safeguards lays out in this striking report, the Trump administration and the Republican Congress are waging a sustained war on regulations. But this is only the latest in a years-long assault by powerful corporate interests on public protections.

The reason this is happening is pretty simple: corruption. Giant corporations and wealthy individuals are working in the shadows to make sure that government works for them, not for the people. Thanks to a freely-spinning revolving door, relentless lobbying and capture of the rulemaking process, corporations are succeeding in weakening enforcement and rigging the rules in their favor. To fight back, we need to tackle head on the corrosive influence of money in government.

We cannot be afraid to make the case that strong government rules matter. Public protections are the best tool we have to create a level playing field so that everyone has a chance to succeed. I thank the Coalition for Sensible Safeguards for shining a light on what is happening in Washington, and for fighting to make government once again work for the people.

- U.S. Senator Elizabeth Warren (D-Mass.)

## WHAT'S AT STAKE

The war on regulation – carried out by the Trump administration, conservatives in Congress and private industry – is premised on a great deal of misinformation and misleading claims. Here's what you need to know to understand what's at stake in the war on regulation and why regulatory safeguards matter.

### The Basics of Regulation

**Regulation 101.** Rules, standards and safeguards that protect the public are an integral part of our democratic process and play an essential role in maintaining an appropriate balance between public health and safety and private profits. Regulations ensure that our laws are properly implemented and enforced. From a practical standpoint, the federal legislative branch does not have the resources, capacity or expertise to carry out this law enforcement mission – which is why Congress delegates authority to a variety of executive branch and independent agencies, bureaus, commissions and departments. Regulations are the legal and procedural tools our government uses to implement and enforce our laws.

**Why Regulation Matters.** Strong and effective regulations protect the air we breathe, the water we drink and the food we eat. They safeguard our homes, our workplaces, our wallets, our health, our environment and our economy from corporate recklessness, greed and lawbreaking. Beginning with the Progressive Era in the early 20th century, reforms were passed to ensure workers could not be forced to labor in dangerous conditions and that unsafe food and drugs could not be sold to unsuspecting consumers. With the rise of the consumer and environmental movements of the 1960s and 1970s, government responded to concerns about industrial pollution and chemical toxins with rules limiting the emissions and contaminants that businesses are allowed to produce in their operations. A series of economic disasters in the decades surrounding the turn of the millennium showed the need for financial safeguards to stabilize markets, ensure continued prosperity and protect the economic security of ordinary citizens from the harsh downsides of the business cycle. As innovations in science and technology continue to advance, so too will the need for regulatory frameworks to ensure that these innovations enhance our political system, economy, environment and culture rather than detract from it.

**The Rules of Rulemaking.** Agencies do not issue new regulations quickly or unilaterally. Instead, the process can take years or decades, [even for non-controversial rules that have universal support](#). The process for developing and issuing federal regulations – known as rulemaking – is arduous and complex. Rulemaking is governed by a variety of statutes such as the Administrative Procedure Act and executive orders requiring agencies to conduct exhaustive studies, perform rigorous analyses of the costs and benefits of proposed rules, solicit input from the public and regulated industries, hold review panels, and coordinate with other government actors such as the U.S. Office of Management and Budget and the U.S. Small Business Administration's Office of Advocacy before issuing a final rule. Sometimes agencies are required to issue a regulation, and sometimes they are given the

discretion to do so. Nearly all laws passed by Congress give agencies at least some flexibility in deciding how best to implement our laws.

## The Truth About Regulation

**Regulation Is Broadly Popular.** Public opinion polling consistently has found [overwhelming bipartisan public support for regulation and tougher regulatory enforcement](#), whether voters are asked about regulation in general or questioned about specific safeguards. From holding Wall Street banks, big polluters and big tech companies accountable, to securing public health and safety, to protecting our environment, American voters see the need for high standards, robust safeguards and clear rules of the road that protect workers, consumers and families from reckless corporations that cut corners and put profits ahead of people.

**Regulation Is Democracy in Action.** When agencies implement standards that protect people and the environment, they are [acting pursuant to a statute](#) passed by both chambers of Congress and signed by the president. This legislation reflects a determination by both of the democratically elected branches of the federal government that (a) there is a pressing national problem that merits our government's sustained attention, (b) new, higher standards are an appropriate response to that problem and (c) standards will be more effective if experts in the agencies apply their specialized knowledge and skills to designing the most effective policies for achieving the statutory goal.

**It's Quality That Matters, Not Quantity.** The vast majority of existing regulations are uncontroversial and not contested by anyone. For example, there are rules moving Tax Day to a Monday in years when it falls on a Sunday; rules setting the timetables for the raising and lowering of federally operated drawbridges; and rules ensuring that trees and shrubs don't block the runways at our airports. Furthermore, there is clear evidence [refuting the claim](#) that the cumulative impact of regulation puts a drag on our economy. It is rare for industry to contest regulations that have been on the books for more than about 10 years. After a decade, newer, higher standards are embraced by consumers and businesses alike as the minimum essential standards. Seat belts are a good illustration. Both before seat belts became a requirement and for several years after, the auto industry fought the regulations requiring them. Today, everyone accepts that seat belts are a basic safety requirement for all vehicles.

**Regulations Are Complex Because of Industry.** Ironically, much of the complexity in our regulatory system exists at the request of regulated industries that demand more nuanced, detailed and intricate rulemakings to boost their bottom lines. Despite the frequent demand for regulatory complexity, most agencies strive to make their rules as simple and as clear as possible while still protecting the public and fulfilling their core mission.

**Regulation Protects Small Businesses and Startups.** First and foremost, regulation protects those who work hard and play by the rules. Standards and safeguards that hold bad actors accountable help to keep the playing field level for small businesses and

entrepreneurs who are honest and responsible. Second, strong regulation can restrain, prevent and punish anti-competitive behavior from industry incumbents – keeping markets open to competition from new entrants and startups. New rules can create opportunities for savvy entrepreneurs to enter the market and out-compete established players, while encouraging incumbents to innovate and exceed even the highest standards. Third, there are many regulations that benefit small businesses directly. For example, some rules specify when businesses are small enough to qualify for special loans, assistance programs and other targeted protections.

## **The Economic Benefits of Regulation**

**Safeguards Are a Great Investment.** Every year that the government has calculated the costs and benefits of federal regulations, it always has shown that health, safety and environmental protections are one of [the best investments we can make](#) – with returns that would make Fortune 500 companies jealous. The U.S. Office of Management and Budget released its latest [draft report \(PDF\)](#) on the costs and benefits of regulations in February – showing up to \$833 billion in NET benefits over the past decade and benefits reaching as much as 12 times the costs. [The Washington Post’s fact checker](#) and [Politifact](#) have debunked the outlandish claims made by President Donald Trump and Republican lawmakers regarding regulatory costs – claims based on industry-funded studies. Most of these studies into the costs of regulation are not scientific, not peer-reviewed, greatly exaggerate the costs to industry and completely omit the benefits side of the ledger.

**Regulatory Protections Grow Our Economy and Create Jobs.** [We do not have to choose](#) between jobs and commonsense safeguards that protect our pocketbooks, homes and workplaces. New standards [create jobs](#) by [encouraging innovation](#) while protecting those who work hard and [play by the rules](#). Clean Air Act regulations helped contribute to a 68-percent reduction in total emissions of pollutants such as ground-level ozone and fine particulate matter between 1970 and 2011; during this same period, [U.S. gross domestic product grew 212 percent](#). Researchers evaluating the U.S. Occupational Safety and Health Administration’s cotton dust standard found evidence that the rule led the textile industry to modernize its facilities. The investments in new equipment [increased the industry’s productivity and profitability](#), enabling it to invest in additional job creation.

**Deregulation Hurts Our Economy and Kills Jobs.** Cutting regulations hurts our economy and kills jobs – something most Americans have witnessed firsthand. The deregulation of Wall Street in the 1990s and 2000s led to the 2008 financial crisis and the Great Recession, which cost Americans up to \$14 trillion, destroyed 8.7 million jobs and caused pension funds for workers to lose nearly a third of their value. So far, the Trump administration’s deregulatory moves have had [virtually no impact on the economy or jobs](#), according to a report from Goldman Sachs. But that could change quickly if industry risk taking and lawbreaking results in a large-scale disaster or sends our economy back into a recession.

## PRIVATE INDUSTRY

Private industry is behind the war on regulation. When they attack regulation, big businesses, corporate trade associations and industry-funded interest groups put profits ahead of the health, safety and well-being of American workers, consumers, families, our environment and our economy.

### Big Money Influence and Deception

**Corporations Spending Billions to Influence Congress.** In the 2016 election cycle – the [most expensive](#) in history — corporate interests that oppose public protections spent more than [\\$1 billion](#) on lobbying and campaign contributions to get their way in Congress, much of it aimed at deregulation. The heavy hitters attacking our system of public protections include the U.S. Chamber of Commerce, commercial banks, the oil and gas industry, the coal mining industry, the auto industry and the insurance industry. Much of corporate political spending in politics is hidden from public view due to the absence of disclosure requirements and the availability of [shady avenues](#) for secret political spending.

**Anti-Regulatory Institutions and Advocacy.** Big corporations and billionaire donors provide substantial funding to a wide array of organizations, business and trade associations, think tanks and academic programs that pursue an aggressively anti-regulatory agenda. These organizations include American Action Forum, the American Enterprise Institute, the American Legislative Exchange Council, Americans for Prosperity, the U.S. Chamber of Commerce, the Cato Institute, the Competitive Enterprise Institute, the Federalist Society, Freedom Partners, George Mason University’s Center for the Study of the Administrative State, George Washington University’s Regulatory Studies Center, the Heritage Foundation, the Mercatus Center, the National Association of Manufacturers, the National Federation of Independent Business, the Washington Legal Foundation and many others. These organizations are behind many of the fake studies and reports, misleading polls and bogus claims about regulation, and many of them lobby lawmakers at all levels of government and attempt to influence media coverage of regulatory issues. In addition to their corporate sponsors, the big donors to these organizations include many familiar names: the Koch brothers, the DeVos family, the Mercers and others. Before President Donald Trump’s inauguration, the Koch-funded Freedom Partners published a [target list](#) of regulatory protections that big corporations wanted eliminated; most of what was on that list already has been achieved.

**Secret Corporate Money Unleashed.** Corporate interests and Republicans in Congress have made it a priority to block measures that would expose the full extent of corporate political spending, including a U.S. Securities and Exchange Commission [proposed rule](#) with widespread public support that would require publicly traded companies to disclose their political spending to shareholders. Additionally, Republicans in Congress are hoping to expand the avenues for secret political spending by trying to repeal the [Johnson Amendment](#). This 60-year-old tax law provision prohibits 501(c)(3) charities – including churches, schools, hospitals and foundations – from supporting or opposing candidates for

office. Without this amendment, churches and charities would get sucked into the ever-expanding vortex of secret money and would become vehicles for partisan politics, and big donors would get a tax break for playing the influence game.

**Denying Science and Covering Up the Truth.** When it comes to attacks on specific regulations, some corporations deliberately [distort the truth](#) about the dangers of their products and services using a set of tactics made famous decades ago by the tobacco industry. These tactics are aimed at deceiving the public, sabotaging long-established public protections and evading accountability for corporate crimes and misdeeds. As we've seen with the tobacco and fossil fuel industries, behind closed doors, many big businesses are fully aware of the immense damage their products and services inflict on society, but choose to hide the evidence and attack regulation to protect their immense profits.

**Misleading Polls.** There also is a great deal of industry-funded polling designed to foster the misleading impression that voters are opposed to public protections. But neutral [polling](#) consistently shows that Democrats, Republicans and Independents – by overwhelming margins – want more protective rules and tougher enforcement – whether the question is framed in general terms or addresses specific regulations. Even after hearing arguments against regulation, more than 3 out of 4 voters still want tougher regulation and enforcement.

## Media Influence

**Biased Language That Parrots Corporate Narratives.** While the mainstream media is not an assailant in the war on regulation, the media often peddles false or misleading narratives pushed by industry-funded groups. Many stories that cover regulatory issues typically lead with industry's perspective or use biased language to talk about regulations. Coverage that focuses on “red tape,” “unaccountable bureaucrats” and regulatory costs without discussing the demonstrated benefits and *net* benefits of regulation lends unwarranted and unearned credibility to anti-regulatory voices.

**Repeating Industry's False Claims Without Fact Checking.** Businesses both large and small frequently make Chicken Little claims about the cost of regulation that have little or no basis in fact. Often, opponents of public protections point to long-debunked figures to bolster their case. There are only a handful of such figures in circulation, and like zombies, the same made-up numbers keep coming back from the dead year after year. The truth is that [both Republican and Democratic administrations](#) have found that the benefits or regulation exceed the costs by as much as [12-to-1](#).

## Deregulatory Litigation

Big businesses, trade associations and corporate-funded advocacy groups frequently sue in court to overturn essential regulatory protections. Here are a few prominent examples.



**Lowering the Overtime Pay Threshold.** The [overtime pay](#) threshold hasn't seen a significant increase since 1975. Back then, nearly two out of three American workers could expect to be paid at 1.5 times their normal pay rate after working more than 40 hours a week. But because the overtime threshold is not indexed to inflation, today only about one in ten workers are covered. People making as little as \$24,000 a year can be forced to work for 60, 80 or even 100 hours a week without receiving overtime pay. So in 2016, the U.S. Department of Labor (DOL) updated the overtime pay threshold to include workers making up to \$47,000 a year – benefiting 12.5 million workers. Corporate groups and a group of conservative state attorneys general sued to challenge the new threshold in court, and, in the district court, they won. The case now is on appeal. DOL claims that it intends to revise the rule to adopt a lower threshold and has asked the court to stay the appeal while it engages in a new rulemaking. Meanwhile, the millions of hardworking Americans who were counting on getting overtime pay this year will have to wait. Even if the Trump administration follows through on its intentions, it is likely that millions of workers will not be eligible for overtime pay under a lower threshold.

**Repealing Protections for Retirement Savers.** In April 2016, the U.S. Department of Labor (DOL) finalized its [fiduciary rule](#), designed to protect workers saving for retirement from bad advice that is not in their best interest. Most people saving for retirement rely on guidance from a broker, a financial planner or an adviser to help them navigate the complex and opaque process of investing. Many investors, however, are extremely vulnerable to exploitation. According to a report from the White House Council of Economic Advisers, investors lose an estimated \$17 billion every year in hidden fees and sales commissions that do nothing but line the pockets of unscrupulous advisers. [At least five lawsuits](#), filed by investment firms and big business front groups such as the U.S. Chamber of Commerce, sought to overturn the fiduciary rule. In March 2018, following a decision by the Fifth Circuit Court of Appeals striking down the rule, the DOL stopped defending it in court. Several states unsuccessfully tried to intervene in court to continue the rule's defense.

**Cancelling Protections for Student Borrowers.** In November 2016, the U.S. Department of Education finalized the borrower defense rule, aimed at protecting students from exploitation by predatory for-profit colleges. Among its many provisions, the rule expands students' access to loan cancellation when the school they attended defrauded them, and it prevents schools that participate in federal student loan programs from adding forced arbitration clauses and class-action bans into student contracts. In May 2017, the California Association of Private Postsecondary Schools filed suit against the Department of Education, seeking to invalidate the rule. Then in June, the department announced plans to delay parts of the rule in an attempt to avoid the agency's legal obligation to enforce them. In February 2018, the department announced that it will extend to July 2019, to give it a chance to revise or even rescind the rule. If the borrower defense rule does not go into effect, potentially [millions](#) of American students will remain vulnerable to costly rip-offs and scams perpetrated by for-profit colleges.

## THE CORPORATE CONGRESS

When lawmakers attack regulation, often it is because deregulatory measures would financially benefit the millionaires, billionaires and big corporations that back them. Deregulation is one way of paying back these moneyed interests for campaign contributions and other forms of political support.

### Anti-Regulatory Legislation

**The Regulatory Process Is Vulnerable to Attack.** One of the main strategies corporate-friendly lawmakers in Congress have used to attack regulation is through legislation that would sabotage the rulemaking and administrative process, which is easier to attack than the much more visible and popular public protections that have resulted from that process. To be clear, the Coalition for Sensible Safeguards believes that the regulatory process has significant room for improvement – especially when it comes to the need for greater transparency and public input, unjustified rulemaking delays and undue influence from industry lobbyists – but the current Republican supported proposals would make these and other problems with the regulatory process objectively worse.

**How Corporate-Backed Politicians Attack the Regulatory Process.** Lawmakers have put forth a series of legislative proposals aimed at preventing agencies from carrying out their missions of protecting the public and our environment in a timely and effective manner. These bills use a variety of strategies to interfere with agency missions: paralyzing agencies by adding dozens of duplicative or pointless procedural hurdles and analytical requirements to an already ossified rulemaking process; upending bedrock principles of administrative law by making the rulemaking process less transparent and accountable; forcing agencies to put industry profits ahead of public welfare; enabling politicized attacks against specific rules; interfering with agency use and consideration of independent science; and further tilting the rulemaking process in favor corporate special interests by providing them even more opportunities to bring specious legal challenges against rules they find inconvenient to their bottom line. If any these measures were to become law, they would at best grind the rulemaking process to halt – so that it takes decades, rather than years, to develop and finalize new rules – and at worst discourage agencies from pursuing new rules altogether.

**Anti-Regulatory Bills.** The two bills that have attracted the most attention in the current session of Congress are perennial threats to our regulatory process: the [Regulatory Accountability Act](#) (see additional analysis [here](#) and [here](#)) and the [Small Business Regulatory Flexibility Improvement Act](#) (see additional analysis [here](#)). Other threats include the [REINS Act](#), the [SCRUB Act](#) and the [Sunshine for Regulatory Decrees and Settlements Act](#). See the Coalition for Sensible Safeguards' [anti-regulatory legislation page](#) for a list of the major bills aimed at blocking agency enforcement of regulatory protections. If even one these bills were to become law, our food, air, water, homes, workplaces and pocketbooks – not to mention our environment and our economy – would be in serious jeopardy. Most of these bills already have passed in the Republican-controlled U.S. House of

Representatives. Americans everywhere are counting on members of the U.S. Senate to hold the line against these and other dangerous bills – and we anticipate a renewed push by Senate Republicans to pass anti-regulatory legislation in 2018.

## **Deregulatory Legislation Targeting Key Industries**

Republicans in Congress are backing sweeping legislation that would harm the public by deregulating specific industries, such as the health care sector and Wall Street.

**Deregulating Wall Street.** Millions of Americans lost their homes, their jobs and their savings when Wall Street crashed the economy in 2008. In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, which reformed Wall Street after decades of deregulation and set up the U.S. Consumer Financial Protection Bureau to protect Main Street Americans from predatory and dishonest financial schemes. The [Financial CHOICE Act](#) and the [Economic Growth, Regulatory Relief and Consumer Protection Act](#) (dubbed the “Bank Lobbyist Act”), the latter of which was signed into law in May 2018, rolled back many of these Wall Street reforms and blocked new safeguards that might hold big banks accountable.

**Deregulating Health Care.** Republicans spent 2017 using every trick in their playbook to repeal the Affordable Care Act (a.k.a. Obamacare), thereby deregulating the health care industry. Their replacement legislation, including the [American Health Care Act](#) and [Graham-Cassidy](#), would throw between 24 and 32 million Americans off their health insurance and slash the core protections of the Affordable Care Act for insured people. Even though the GOP’s health care legislation was blocked, Republicans in Congress [repealed the individual mandate](#) in their tax legislation, and some Republicans have signaled an interest in attempting to repeal the Affordable Care Act in 2018. In addition, the Trump administration is attempting to undermine our health care system through [executive orders](#) and [deregulation](#), including pushing to allow insurance companies to offer junk plans that could avoid the Affordable Care Act’s requirements and would destabilize the health insurance exchanges. The real-world consequences will be people dying from treatable illnesses, suffering needlessly and entering into medically driven bankruptcies.

## **The Congressional Review Act**

**Overtaking Public Protections.** A holdover from Newt Gingrich’s 1994 Contract with America, the [Congressional Review Act](#) (CRA) has been used by narrow partisan majorities to attack broadly popular public safeguards on behalf of politically powerful interests. The CRA process allows Congress – by majority vote in both chambers, with limited debate, no possibility of a filibuster and the president’s signature – to override recently issued public protections. Health, safety, consumer and environmental protections that took years of resource-intensive analysis, comment and review can be wiped out in a matter of days or hours. [This process](#) ignores public participation and stakeholder engagement that takes place throughout the rulemaking process, in addition to setting aside any scientific analysis done in support of the regulations.

**16 Safeguards Repealed, Even More Targeted.** In 2017 and 2018, conservative lawmakers used the CRA to repeal [16 public protections](#), confirming how dangerous this law is when in the wrong hands. The repealed rules included [broadband privacy protections](#), [the forced arbitration rule](#), [clean water protections](#), [restrictions on gun ownership for the severely mentally ill](#), [women’s health care protections](#), [protections for the employees of federal contractors](#) and more. [Financial disclosure data](#) revealed that the lead sponsors of the CRA-powered measures against these rules received significant campaign contributions from the industries that most directly benefited from these regulatory rollbacks. In 2018, lawmakers used the CRA process to [repeal](#) non-binding regulatory guidance documents – a bizarre and extreme use of the CRA process, considering that agencies easily can withdraw guidance that has drawn congressional ire.

**Stopping Regulators From Discovering Wrongdoing.** Regulators need to be able to find out about corporate wrongdoing in order to stop it. Repeal of the CFPB’s [forced arbitration rule](#) using the CRA process is particularly alarming because it prevents financial regulators from discovering corporate rip-offs and scams. Here’s how. Forced arbitration deprives consumers of their right to go to court, instead forcing them to use private arbitration to resolve disputes. But most forced arbitration clauses also require that the proceedings remain confidential, keeping corporate criminal schemes out of the public eye and hidden from regulatory authorities. This is exactly how Wells Fargo was able to keep its fake accounts scam going for years. Many customers tried to sue the bank over fake accounts as far back as 2013. But because of forced arbitration “rip-off” clauses hidden in the fine print of their real accounts, customers were kicked out of court and unable to tell their stories. This allowed Wells Fargo to get away with fraud for an additional three years, until the CFPB finally intervened.

**Stretching the CRA Far Beyond Its Original Intent.** In April and May of 2018, Congress repealed the CFPB’s 2013 indirect auto lending guidance, designed to combat racially discriminatory lending practices. Doing so stretched the CRA far beyond its original intent, since the law never was meant to be used to target nonbinding regulatory guidance or older, settled agency actions. The conventional understanding of the CRA was that it could be used by Congress to strike down recently issued regulations, and there is little doubt that those who originally passed the law understood it in this way. But now, Republicans in Congress claim they’ve found a loophole in the badly written law that would allow them to overturn regulatory protections that have been in place since as far back as 1996 if those rules weren’t formally submitted to Congress. Exactly how many rules and guidance documents are vulnerable because of this newfound loophole isn’t yet clear. What is clear is that congressional Republicans are trying to open another front in their war on regulations.

## Agency Funding Cuts

**Public Protections Are a Sound Investment of Government Resources.** It takes money to protect the public, develop and finalize new public protections, monitor regulated industries and enforce the law. Without [adequate funding](#) for federal agencies, it is

impossible for them to keep our [air and water clean](#), ensure we have safe food and consumer products, safeguard our workplaces and wages, and protect our environment and economy. That's why it is crucial to provide ample funding for our watchdogs in government. This funding is a wise use of our public resources because, as noted above, regulations are among the most successful government programs we have, helping to protect the public, promote economic growth and create new jobs.

**Painful Funding Cuts Proposed for 2019 and Beyond.** Before the Trump administration took office, many federal agencies that protect the public already were on a starvation diet due to the automatic funding cuts triggered in 2013 by the Budget Control Act. The omnibus passed in March 2018 increased domestic spending by \$63 billion. But for fiscal year 2019 and beyond, President Donald Trump and congressional Republicans are proposing a budget that is rigged for millionaires, billionaires and big corporations – one that makes deep and painful cuts to agencies throughout our government that look out for workers, consumers and families. These include cuts to the [U.S. Consumer Financial Protection Bureau](#) and the [U.S. Environmental Protection Agency](#).

## Poison Pill Policy Riders

**Harmful Riders Don't Belong in Funding Legislation.** It's bad enough when lawmakers propose deep and painful funding cuts, but they also have repeatedly threatened to attach hundreds of [harmful policy riders](#) to budget and spending bills that have nothing to do with funding our government. Instead, these measures seek to weaken, repeal or block essential public protections for workers, consumers and families as well as our communities, environment and economy. Unsurprisingly, most of these measures are unpopular, controversial and could not become law on their own merits. That is why unscrupulous lawmakers attach these measures to must-pass budget and appropriations legislation as riders, [bypassing the normal legislative process](#).

**Special Favors for Big Corporations and Ideological Extremists.** The secretive nature of these poison pill riders, combined with their [direct benefits for favored corporate interests](#), create a perfect breeding ground for corruption. Data on campaign contributions reveals that often there are [close financial ties](#) between the sponsors of specific riders and the industries those riders would benefit. Even if these riders were not the result of an explicit or implicit *quid pro quo*, the appearance of impropriety they create is sufficient to weaken public esteem for our governing institutions, further undermining the legitimacy of our democracy.

**Harmful Riders in FY 2018 and FY 2019.** It is a sign of lawmakers' misplaced priorities that they found time to insert hundreds of these extraneous provisions into federal spending bills in 2017 and 2018, even as they struggled to reach consensus on funding levels – the purpose of budget and appropriations legislation. In the FY 2018 budget cycle, lawmakers proposed riders that would have [threatened our campaign finance system, our environment, women's health and more](#). Thankfully, most of these measures were removed

from the final package, but poison pill riders remain a threat in FY 2019 appropriations bills.

## Misleading Hearings

**A Platform for Corporate Lobbyists to Spread Misinformation.** Republicans in Congress have used congressional committee hearings to spread misinformation about the regulatory process and attack agencies that hold corporate wrongdoers accountable. The intent of this misinformation is to weaken public support for regulatory protections and pave the way for legislation that damages the regulatory process. Republican committee members routinely invite [industry lobbyists and corporate spokespeople](#) to attack regulations while ignoring the communities who benefit from commonsense safeguards. In addition, committee hearings have been used to advance extreme and novel approaches they might use to subvert the regulatory process. For example, Republicans held a hearing in September 2017 in which they discussed a [theory](#) that the Congressional Review Act can be used to strike down regulations issued years or decades ago. And in March 2018, Republicans held a hearing to [celebrate](#) the Trump administration's deregulatory agenda.

**The Illusion of Holding Guilty CEOs Accountable.** Congressional hearings have been used to create the illusion of accountability in the wake of corporate crimes and scandals. Executives from companies like Wells Fargo and Equifax have been hauled before U.S. House and U.S. Senate committees to account for their misdeeds and make empty promises to change their ways. Shockingly, Republican lawmakers have used these hearings to attack the very same agencies that uncovered corporate lawbreaking in the first place, namely the U.S. Consumer Financial Protection Bureau. While some lawmakers, such as U.S. Sens. Elizabeth Warren (D-Mass.) and Sherrod Brown (D-Ohio), deserve high praise for doing their homework and condemning corporate criminals in the harshest possible terms, many lawmakers sleepwalk their way through these hearings and let corrupt CEOs get away with pat answers and transparently empty promises to change their ways.

## THE TRUMP ADMINISTRATION

President Donald Trump and many officials in his administration would personally reap financial rewards from deregulation and anti-regulatory policies. Trump has surrounded himself with corporate cabinet officials as well as ideological extremists who are hostile to government regulation of any kind. Trump himself has said that he wants to return to the level of regulation in the 1960s, and Steve Bannon, former chief strategist for the White House, famously called for “deconstructing the administrative state.”

### The Conflicted Corporate Cabinet

**Senior Officials With Corporate Ties.** There’s an old saying in the nation’s capital: “Personnel is policy.” That’s especially true when the personnel leading an administration have close ties to the industries they are supposed to regulate. President Donald Trump’s [Corporate Cabinet](#) is more entangled with big business interests than any Cabinet in recent memory and is delivering results. For example, just weeks after [denouncing](#) “out-of-control” prescription drug prices, Trump nominated former Lily USA executive [Alex Azar](#) to run the U.S. Department of Health and Human Services. Under Azar’s watch at Lily USA, drug prices [spiked for diabetic Americans](#), and Azar [opposes measures](#) to restrain Big Pharma profiteering by allowing the government to [negotiate](#) drug prices.

**Deregulatory Conflicts of Interest and Self-Dealing.** Both Trump and senior members of his administration have a [staggering array](#) of [conflicts of interest](#), and they have used their positions to [advance the interests](#) of private industry at the expense of the American people. Often that has meant pursuing a [deregulatory agenda](#) meant to boost profits for the businesses and industries to which they have ties. For example, Scott Pruitt, the head of the U.S. Environmental Protection Agency, is now in charge of implementing safeguards that he was litigating to roll back as attorney general of Oklahoma. His ties to the oil and gas industry are well-known, and so far, his actions have sidelined science, undermined public health safeguards and boosted the profits of polluting industries. At the staff level, the Trump administration has hired dozens of industry insiders, including a [former lobbyist](#) for giant drug company Gilead to work on pharmaceutical pricing. In a particularly egregious example of self-dealing, Trump appointed energy mogul Carl Icahn to serve as his special adviser on regulations. Icahn then used his role to publicly push for fundamental changes to the Renewable Fuel Standard that would have resulted in a [\\$200 million annual windfall](#) for his business empire. When the scheme [collapsed](#), Icahn [fled the administration](#), and he now is facing a [federal criminal investigation](#).

**Anti-Government Hostility.** Just as problematic, Trump has appointed individuals to senior government posts who are opposed ideologically to the missions of the agencies they are running. Among them, Trump put former congressman, Tea Party leader and self-described “[right-wing nutjob](#)” [Mick Mulvaney](#) in charge of the U.S. Office of Management and Budget (OMB). Mulvaney described his power to shut down the government during a funding lapse as “[kind of cool](#).” He also has empowered predatory payday lenders in his part-time job as acting director of the U.S. Consumer Financial Protection Bureau. In

another particularly egregious example, Trump named [anti-regulation](#) theorist [Neomi Rao](#), formerly of the Koch-funded George Mason University Law School, to lead the [U.S. Office of Information and Regulatory Affairs \(OIRA\)](#). Both OIRA and OMB play a critical role in the regulatory process, and both Mulvaney and Rao are [ideologically hostile](#) to regulation of any kind.

## Executive Orders and OIRA

**The Two-Out, One-In Executive Order.** As one of his first acts upon entering office, Trump issued [Executive Order 13771](#) on January 30, 2017, mandating that federal agencies cannot issue a new rule without repealing at least two existing ones to offset the costs of the new rule, regardless of the benefits. [These regulatory budget](#) requirements place an arbitrary cap on beneficial regulations, leaving us all less safe and secure. We already have seen evidence that the order is forcing agencies to delay, weaken or forgo new science-based public protections authorized or mandated by Congress that would protect health, safety, workers and the environment, across a broad range of issues – from automobile safety to occupational health to air pollution to endangered species. In February 2017, Public Citizen, the Natural Resources Defense Council and the Communications Workers of America [sued to block](#) this order, asking the court to issue a declaration that the order cannot be lawfully implemented. In February 2018, the court ruled that the groups have not yet demonstrated that they have standing to pursue this challenge but did not rule on the merits of the challenge. The groups have amended their complaint and are awaiting a new ruling from the judge.

**Deregulatory Task Forces.** [Executive Order 13777](#), issued on February 24, 2017, set up the Trump administration's deregulatory task forces in agencies throughout the federal government, empowering them to hack away at critical public protections. Trump's task forces have conducted most of their work [in secret](#) and in consultation with corporate lobbyists, despite widespread public and press criticism of their lack of transparency. While much of the [task forces' work remains hidden from the public](#), we know they have targeted science-based regulations such as the Clean Water Rule, climate change measures, updates to overtime pay for millions of hardworking Americans, incentives to keep corporations from offshoring income to avoid paying taxes, disclosures of unequal pay based on gender, net neutrality and other essential safeguards.

**A Fox in Charge of the Hen House.** The White House Office of Information and Regulatory Affairs (OIRA) headed by [Neomi Rao](#) has been at the forefront of the administration's push to roll back regulatory safeguards. Prior to her nomination, Rao had been a law professor whose scholarship reflected a [strong antipathy toward regulatory safeguards](#). Often called "the most powerful agency you've never heard of," [OIRA holds a powerful position in the rulemaking process](#), essentially functioning as a gatekeeper for critical public interest agencies like the U.S. Environmental Protection Agency, the U.S. Food and Drug Administration and the U.S. Occupational Safety and Health Administration (OSHA) as they pursue higher standards. Due to its general lack of transparency and its tendency to act on behalf of politically powerful corporate interests, OIRA uses this gatekeeper role to weaken



pending safeguards and delay them for months or even years. In the Trump administration, OIRA's role has been to spearhead Trump's agenda of delaying, weakening, blocking and rolling back safeguards. Under Rao, OIRA is ensuring that industry profits take precedence over protecting the public and is fast-tracking deregulatory measures without proper scrutiny, scientific support or evidence.

## Attacks on Science and Expertise

**Altering, Hiding and Suppressing Data.** Developing and enforcing regulatory protections requires enormous scientific and technical expertise, and President Donald Trump has [sidelined that expertise](#) at every turn. Early in the administration, many government web pages with scientific and technical data were [altered or removed](#), particularly those that focus on climate change. The Trump administration also altered data collection practices intended to [support disadvantaged communities](#). In addition, U.S. Centers for Disease Control and Prevention officials [told staff](#) that the words "diversity," "entitlement," "evidence-based," "fetus," "science-based," "transgender" and "vulnerable" were not to be used in budget documents. The administration has issued directives telling staff scientists not to speak to reporters, [restricted scientists](#) from speaking at scientific conferences, [halted](#) ongoing National Academies' studies and [restricted](#) the use of scientific data to craft regulatory protections.

**Misrepresenting Scientific Information and Overruling Agency Scientists.** The Trump administration has made it a priority to [attack science-based policies](#) and communications on preparing for and mitigating climate change. Officials, including U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt, have misrepresented climate science, removed climate-related content from government communications and proposed funding reductions for climate research. In March 2017, Pruitt announced that his agency would decline to ban chlorpyrifos despite years of scientific study and deliberation indicating that the pesticide poses a clear risk to children, farmworkers and rural drinking water. In doing so, the administration [made a 180-degree turn](#) from the EPA Office of Chemical Safety and Pollution Prevention's scientific conclusion that chlorpyrifos has harmful effects on children's brain development. The administration also has delayed or repealed science-based pollution standards to protect public health, including protections against [mercury, air toxics and coal wastewater](#), without replacing them with new, scientifically defensible standards.

**Getting Rid of Agency Experts and Scientists.** In terms of agency personnel, the Trump administration has filled positions that require significant scientific and technical expertise with corporate lobbyists [who have none](#) and has [silenced](#) and [purged](#) scientists and technical experts who do. Trump has failed to select a science advisor to direct the U.S. Office of Science and Technology Policy and as of January 2018 [had appointed only 20 of the 83](#) scientist appointee positions. Experts on federal science advisory committees are being [replaced](#) with individuals who have ties to regulated industries and in some cases have limited science backgrounds. Throughout the government, many positions that require technical expertise have been left vacant, as seen in the declining number of

[workplace safety inspectors](#) at the U.S. Occupational Safety and Health Administration. Staffing levels at the EPA are at their [lowest since the Reagan administration](#). In addition, senior level officials frequently have misrepresented or disregarded scientific evidence even when such evidence has been pertinent to policy decisions. Some Trump appointees are [cooking the books and distorting economic analysis](#) to produce [results that align with the administration's corporate agenda](#).

**Funding Fake Research on Regulatory Costs.** Even more outrageous, the Trump administration was caught using taxpayer money to [commission a fake study](#) into the costs of regulation. The U.S. Small Business Administration's (SBA) Office of Advocacy awarded a research contract to a pair of disgraced economists whose previous study into the costs of regulation was so embarrassing to the agency's reputation that the SBA Office of Advocacy had to recant it. Even after facing widespread [criticism](#) for this egregious misuse of taxpayer money, the SBA Office of Advocacy is continuing to fund the fake research.

## Slashing Public Protections

**Withdrawn and Delayed Rulemakings.** The repeal of specific rules like the Clean Power Plan and net neutrality has been accompanied by a broader push against rulemaking. Twice a year, the administration publishes a guide to all the rulemaking activity throughout the federal government called the Unified Agenda. What the Trump administration's Unified Agendas have made clear is that the administration is abandoning and delaying [hundreds of rulemakings](#). Although the Trump administration was caught [inflating its numbers](#), the frightening scale of this anti-rulemaking push is no illusion. Administration officials largely have avoided discussing the details of the rulemakings they withdrew. But these rulemakings eventually would have reduced workplace accidents, prevented fires and explosions, and protected the rights of same-sex couples.

**Repealing the Clean Power Plan.** Power plants account for about 35 percent of carbon dioxide emissions in the U.S. – emissions that are disrupting and destabilizing our planet's climate. In August 2015, the U.S. Environmental Protection Agency (EPA) finalized new standards under the Clean Air Act to reduce those emissions. These standards, known as the [Clean Power Plan](#), establish state-by-state targets for emissions reductions and offer a flexible framework under which states can meet those targets. If implemented, the Clean Power Plan would reduce emissions nationwide by an estimated 32 percent below 2005 levels by 2030 and would [lower consumers' electricity bills](#) by as much as 20 percent in some states. Trump's EPA is [expected to write a weaker rule](#) replacing the Clean Power Plan in 2018.

**Repealing Net Neutrality.** The principle behind [net neutrality](#) is simple: The internet should be open and free. The Federal Communications Commission's (FCC) net neutrality rules prohibited internet service providers (ISPs) like AT&T, Comcast and Verizon from speeding up, slowing down or blocking content, applications or websites you want to use. Without net neutrality, cable and phone companies could carve up the internet into fast and slow lanes. An ISP could slow down its competitors' content or block political opinions

it disagreed with. ISPs could charge extra fees to the few companies that could afford to pay for preferential treatment – relegating everyone else to a slower tier of service. In time, this would destroy the open internet. In 2015, millions of ordinary Americans who care about the internet urged Obama’s FCC to adopt net neutrality, and it did so. At the request of big telecom lobbyists and against the overwhelming opposition of consumers and advocates, Trump’s FCC voted to repeal net neutrality in December 2017. In May 2018, the U.S. Senate voted 52-47 to restore the FCC’s net neutrality rules.

**Endangering Communities at Risk of Chemical Disasters.** For years, community groups, environmental organizations and labor groups fought for stronger chemical disaster prevention rules. In 2013, President Barack Obama finally issued an executive order directing federal agencies to enhance chemical facility safety. The U.S. Environmental Protection Agency (EPA) then undertook a multi-year effort of stakeholder engagement and requests for information to develop a proposed rule. After receiving comments from industry, advocacy groups and other stakeholders, a rule was finalized in January 2017. The updated rule, which modernized the EPA’s Risk Management Program, was scheduled to go into effect in March 2017, though some provisions were scheduled to phase in over time, some as far out as 2022, which gave facilities flexibility in figuring out how to comply with the updated requirements. At the request of the regulated industries, EPA Administrator Scott Pruitt put the rule on hold until February 2019 and proposed to roll back key sections of the rule. This decision prompted the [legal challenge](#) from advocates and fenceline communities. In March 2018, the U.S. Court of Appeals for the D.C. Circuit held a public oral hearing on this case, which pits environmental justice communities, scientists, public health advocates, labor and others against Trump’s EPA in the fight to protect themselves from chemical disasters.

**Rolling Back Clean Car Standards.** In 2011, automakers, labor groups and environmentalists stood in the Rose Garden beside President Obama as he announced the clean car standards. The rules already have delivered benefits for consumers and would cut [six billion metric tons](#) of tailpipe climate pollution – the equivalent of a year’s worth of pollution from 150 power plants – from the atmosphere by 2025. Those gains now are threatened because, despite having helped craft the clean car standards, automakers have pushed to roll them back since Trump’s election. EPA Administrator Scott Pruitt decided in April 2018 that the clean car standards are “not appropriate” and should be rolled back, even though automakers are meeting the standards faster and more affordably than originally predicted. In May 2018, Public Citizen, the Center for Biological Diversity, the Conservation Law Foundation, the Environmental Defense Fund, the Natural Resources Defense Council, the Sierra Club and the Union of Concerned Scientists filed a [petition](#) calling on the U.S. Court of Appeals for the D.C. Circuit to review the EPA’s decision.

## Gutting Enforcement

**Wall Street’s Watchdog Replaced by a Lapdog.** After the resignation of U.S. Consumer Financial Protection Bureau Director Richard Cordray, President Donald Trump [appointed](#) Mick Mulvaney – one of the agency’s fiercest opponents – to serve as its interim director.

Within days, Mulvaney signaled his intent to [go easy on Well Fargo](#) after its latest criminal abuses, and he [put the agency's probe into Equifax on ice](#).

**Letting Corporate Criminals Off the Hook.** Trump and U.S. Attorney General Jeff Sessions talk tough about crime, but in practice, they've show [extraordinary lenience](#) toward corporate offenders. [Lax enforcement](#) – whether it takes the form of [deferred prosecution agreements](#), [slap-on-the-wrist fines](#) or tolerance for [golden parachutes](#) – fosters a culture of corporate lawbreaking. According to press reports, the U.S. Environmental Protection Agency is [letting big polluters off the hook](#) and [putting limits on enforcement officers](#). In addition, the U.S. Department of Justice has [become openly hostile to enforcing our nation's environmental, consumer protection, health and safety laws](#), slamming the brakes on constructive settlements, rejecting mitigation projects designed to address community and environmental harms, and [ending consideration of guidance documents](#) when contemplating enforcement actions.

**Deregulation Leads to Disaster.** The Trump administration's [eagerness to let corporate crime go unpunished](#) is [setting the stage](#) for major disasters caused by corporate recklessness, as recent history clearly shows. The Wall Street financial crisis of 2008 was caused by weakening and repealing regulations that had kept America's banking system sound for decades. Weak drilling safety standards resulted in the 2010 BP oil spill into the Gulf of Mexico that killed 11 workers, cost more than \$50 billion and disrupted small businesses, working families and ecosystems all along the Gulf Coast. Even now, [more than 18 million Americans](#) – including the residents of Flint, Mich. – are using water systems with lead levels that violate standards. The recent hurricanes in Texas and Florida demonstrated the need for chemical plant safeguards and flood mitigation standards recently repealed by the administration. And the lack of regulation of big technology platforms is endangering our democracy. Consider the wave of fraudulent accounts and abuses at Wells Fargo, the woefully inadequate privacy safeguards at Equifax, [Volkswagen's emissions cheating](#), [Takata's lethal airbags](#) and [Samsung's exploding smartphones](#). The last thing we need is deregulation that [lets corporate criminals off the hook](#).

**We Need Tough Regulation and Enforcement.** What's behind the war on regulation is crystal clear: corporate greed. Corporations have shown time and again that they cannot and will not police themselves. Right now our nation is facing a virtual epidemic of [corporate crime and wrongdoing](#) that is harming tens of millions of Americans at a time. We need tough regulation and enforcement to stop big banks, big polluters and big tech companies from endangering our environment, our economy and our democracy. Clear rules of the road, high standards and commonsense safeguards are essential to saving lives, preventing catastrophes and holding corporate wrongdoers accountable.

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