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Testimony for Hearing on Regulatory Reform

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Hearing on "Regulatory Reform: Unleashing Economic Opportunity for Workers and Employers," U.S. House of Representatives Committee on Education and the Workforce, Subcommittee on Workforce Protections, Wednesday, May 23, 2018, 10:00 a.m., Room 2175, Rayburn House Office Building

Thank you Chairman Byrne, Ranking Member Takano, and other distinguished members of the subcommittee. My name is Heidi Shierholz and I am an economist and the Director of Policy at the Economic Policy Institute (EPI), one of the nation's premier think tanks for analyzing the effects of economic policy on the lives of America's working families. Prior to joining EPI in early 2017, I was the Chief Economist at the U.S. Department of Labor (DOL).

Thank you for holding this important hearing on regulatory reform. Regulations put laws into action. 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 therefore 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 regulations don't just provide essential protections; research shows that federal regulations also provide a large net benefit to the economy. Rhetoric attacking regulations generally alleges that regulations are overly burdensome for employers and cost jobs, and opponents of regulations routinely emphasize the costs associated with regulations while ignoring their benefits. However, research shows that federal regulations in fact provide an overall *net* economic benefit and that they have a modestly positive or neutral effect on employment.

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.[1] 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. OMB reviewed major regulations from 2000 to 2010 and estimated that the average annual benefit of major regulations is about seven times the cost.[2] OMB's findings are even more significant when you consider studies showing that government regulators generally overestimate costs.[3] Further, many benefits are never monetized, but almost all costs are.

Research on the relationship between employment and regulations generally finds that regulations have a modestly positive or neutral effect on the *net* number of jobs in the economy.[4] How might 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 machinery to begin manufacturing lead-free paint.

"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 cited regulations as the reason for mass layoffs in just a tiny share of mass layoff events—*one-quarter of one percent*.[5] The editors of an important collection of essays on the impact of regulations on employment summed up their findings in the following way: "Regulation plays relatively little role in affecting the aggregate number of jobs in the United States… Studies generally find either no strong relationship at all or relatively modest effects of regulation on employment."[6] Even conservative researchers at the Mercatus Center at George Mason University have thrown cold water on the notion that federal regulations are a drag on the economy. In a 2014 report, using a database that attempts to measure the extent to which regulations constrict the freedom of businesses to operate, Nathan Goldschlag and Alexander Tabarrok found that "federal regulation has little to no effect on declining dynamism."[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]

Despite this evidence, President Trump and congressional Republicans have engaged in an unprecedented attack on regulations over the last 19 months, rolling back rules that were intended to protect workers, consumers, and public health. 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 President 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] The Trump administration's Office of Information and Regulatory Affairs reported that federal agencies issued 67 deregulatory actions and three regulatory actions during fiscal year 2017.[11]

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.[12] Prior to the 115th Congress, the CRA had only been successfully used to repeal a rule once, in 1996.[13]

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. Below are some key examples.[14]

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.[15]

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, President 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.

Delaying a rule requiring employers to 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.[16]

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.[17] Most troubling, though, was OSHA's November 2017 announcement that it intends to "reconsider, revise, or remove portions of that rule in 2018."[18]

In 2016 alone, well over 5,000 workers died on the job.[19] 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.

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.[20] Under the Trump administration, OSHA proposed to rescind some provisions of the rule intended to protect workers in the construction and shipyards sectors.[21] DOL announced that OSHA will not enforce the shipyard and construction standards until further notice while this new rulemaking is underway.[22]

About 62,000 workers are exposed to beryllium in their workplaces, including approximately 11,500 construction and shipyard workers.[23] The Trump administration's proposal would rescind important ancillary 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.[24] Under President Trump's proposal, employers in construction and maritime would, for example, no longer have to measure beryllium levels or provide medical testing to workers at risk of fatal lung disease.

Proposing to increase hog line speeds, endangering workers

The Trump Department of Agriculture proposed regulations to create the New Swine Inspection System, which would allow for an unlimited increase in hog slaughter line speeds—putting worker safety at risk. Meat slaughter and processing is a high-hazard industry. Even at current line speeds, pork slaughter and processing workers face many job risks that can lead to severe injury, illness, and death.[25] The pork industry is already one of the most dangerous for workers, who work in cold, wet, noisy, and slippery conditions making tens of thousands of forceful repetitive motions using knives, hooks, and saws. Meatpacking workers are injured or made ill at work at 2.4 times the rate of workers in other private-sector industries, and they face work-related injuries or illnesses that result in lost time or restrictions at nearly three times the rate of workers in other private-sector industries. Further, meatpacking workers experience hearing loss at nearly 17 times the rate of workers in other private-sector industries.[26] Increasing line speeds will almost surely lead to an even greater rate of injuries and illnesses among meatpacking workers, and the medical and indirect costs to workers and employers of these additional occupational injuries and illnesses will be sizable. Even a *1 percent* increase in nonfatal injuries and illnesses as a result of the rule would increase the cost of the rule by well over $2 million annually.[27]

Proposing to weaken protections for farmworkers

The President Trump Environmental Protection Agency proposed weakening regulations protecting farmworkers from harmful effects of pesticide exposure.[28] 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.[29] The EPA proposed these standards in 2014, and many of the protections have already gone into effect.[30] The EPA itself has estimated that roughly 2,000–3,000 cases of acute pesticide exposure occur among farmworkers every year,[31] with health effects ranging from rashes, nausea, blisters, and respiratory issues to Parkinson's disease.[32] Rolling back these standards exposes farmworkers to additional risks of illness and death.

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

On December 5, 2017, the Trump administration Department of Labor issued a proposal to allow employers to collect their workers' tips, ostensibly to distribute them more evenly through tip pools. However, the rule was written in such a way that it would have made it legal for employers to simply pocket tips. This would have been a major windfall to restaurant owners and other employers of tipped workers, out of the pockets of people who work for tips. EPI estimated that if that rule were finalized, workers would lose $5.8 billion a year in tips, with $4.6 billion of that coming from the pockets of women working in tipped jobs.[33]

In a highly unusual move, DOL did not provide an estimate of the dollar amount of tips that would be shifted from workers to employers as a result of the rule—even though the department was required, as a part of the rulemaking process, to assess all quantifiable costs and benefits to the fullest extent possible. DOL initially claimed it could not do an analysis, when in actuality it did produce an estimate—and then buried it because it showed the rule would be terrible for workers.[34] Thanks to investigative reporting, it is now known that Secretary of Labor Alexander Acosta went to the highest level within the White House Office of Management and Budget to get the green light he needed to bury the required analysis.[35] Likely in large part due to these revelations, DOL came to the table to hammer out a compromise. The omnibus spending bill that President Trump signed on March 23 included a provision that makes it clear that employers may not keep any tips received by their employees.

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

In 2016, after years of work, the Department of Labor updated the "overtime pay" rule, raising the salary threshold below which workers are automatically eligible for overtime pay to $47,476 [36] and giving 12.5 million people new or strengthened overtime protections.[37] 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.[38] Prior to the 2016 rule, low-level managers 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.[39]

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 with new rulemaking, once again siding with corporate interests over workers.[40]

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

On April 13, 2017, President 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.[41] The Government Accountability Office warned that such legal uncertainties could delay or deter states' efforts to expand coverage.[42]

By blocking this rule, President 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.[43]

Delaying a rule providing crucial protections for retirement savers

On February 3, 2017, President Trump issued a Presidential Memorandum to review the "fiduciary" rule.[44] This was just two weeks into his administration, a clear signal that undermining this common sense rule is a top priority for the administration. The fiduciary rule required that financial professionals presenting themselves as investment advisers act in their clients' best interests. The rule is needed because "conflicted" advice leads to lower investment returns, causing real losses—an estimated $17 billion a year—for the clients who are victimized.[45] The rule would prohibit common practices such as steering clients toward investments that pay the adviser a commission but provide the client a lower rate of return. It was exhaustively researched by the Department of Labor and debated over several years, survived several court challenges, and was completed in 2016. It was supposed to be implemented on April 10, 2017.

However, unscrupulous players in the financial industry are working to kill the rule so they can continue fleecing retirement savers. The Trump administration is doing everything it can to help them, for example instituting various delays of the rule. I estimate that these delays alone will cost retirement savers **$18.5 billion over 30 years.**[46]

Though the rule withstood numerous legal challenges, the 5th Circuit Court of Appeals vacated the rule in March. Subsequently, the Department of Labor announced that "pending further review" it would not be enforcing the rule.[47] The administration did not appeal the 5th Circuit decision, which came two days after a 10th Circuit decision upholding the rule, leaving the rule in legal limbo.

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

Congressional Republicans approved and President Trump signed a resolution that blocked a regulation establishing rules for drug testing applicants for unemployment insurance (UI) benefits.[48] 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.[49]

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 changes 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 through no fault of their own 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.

Putting the EEO-1 pay data collection requirements on hold

The EEO-1 pay data collection requirements were intended to identify and fix pay disparities in America’s workplaces. They would have required large companies (with 100 or more employees) to confidentially report to the Equal Employment Opportunity Commission (EEOC) information about what they pay their employees by job category, sex, race, and ethnicity.[50] The goal of these requirements was to help employers, the public, and the government identify and remedy gender and racial/ethnic pay inequities. But the Trump administration has put them on hold.[51]

By putting the equal pay data collection requirements 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 ago[52] and gender pay disparities have remained essentially unchanged for at least 15 years.[53] In both cases, discrimination has been shown to be a major factor in the persistence of those gaps.

When these requirements were 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.”[54] By staying these requirements, the Trump administration has shown that it does not value equal pay for equal work.

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.[55] The President 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.[56]

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.[57] Seeing how much money employers are paying out to these consultants would provide an important perspective on employers' frequent arguments 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.[58] However, the intensity with which employers have opposed organizing efforts,[59] 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 President Trump's appointees to the NLRB plan to alter the rule.[60] 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 Republican board majority has little interest in maintaining an efficient election process for this nation's workers.

Rolling back the Fair Pay and Safe Workplaces rule

Senate Republicans approved, and President Trump signed, as resolution that rolled back a rule requiring 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.[61] 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.[62] 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.

Gearing up to do more damage

On May 9, the Department of Labor released its Spring Regulatory Agenda. It includes plans for repealing, weakening, or delaying a number of important protections that safeguard workers' health and lives on the job. One in particular is a Wage and Hour Division proposal that would update the rules that limit workers under age 18 from working in occupations that are particularly hazardous or detrimental to the health or well-being of children. These rules are known as Hazardous Occupations Orders (HOs). A summary of a draft regulation obtained by Bloomberg Law showed that DOL will propose relaxing the current rules that prohibit apprentices and student learners who are under the age of 18 from receiving extended, supervised training in certain dangerous jobs.[63] In other words, instead of working to safeguard the health and well-being of all workers—especially children—DOL is instead planning to propose to make it easier for 16- and 17-year-olds to work in hazardous occupations.

Conclusion

Job growth has been strong for an extended period. The labor market has added more than 2 million jobs per year in each of the last seven years—including, notably, during the period of implementation of many of the regulations that the Trump administration and congressional Republicans have abandoned or rolled back. Wage growth, on the other hand, is weak for most workers. This weak wage growth cannot, however, be pinned on regulation. Weak wage growth for most workers and rising inequality is a trend that began late in the Carter administration and worsened substantially in the Reagan-Bush years. In fact, since 1979, inflation-adjusted wages grew across the board only during a brief period late in the Clinton administration when the economy attained something close to full employment (4.1 percent unemployment on average for two full years in 1999 and 2000).[64] Weak wage growth over most of the last four decades was the result of a policy onslaught to shift economic leverage away from low- and middle-wage workers. If the Trump administration and congressional Republicans were truly looking for policies to ensure that the economy delivers for all workers—and not just the already-affluent—they would not spend their time painting regulations as the problem while dismantling key worker protections. They would instead tackle policies that would actually lead to a fair economy. A document that provides a robust agenda for creating jobs, raising wages, and fixing our rigged economy is attached [include attachment]. It includes policies to strengthen—not gut—rules that support good jobs, restore full employment as a primary policy target, protect the basic human right of worker organization, level the playing field that trade laws and exchange rate misalignments have tilted against workers, and raise top tax rates to invest in America and restore power to the bottom 90 percent.

Attachment: "A Real Agenda for Working People: What Trump Would Do If He Were Serious about Creating Jobs, Raising Wages, and Fixing Our Rigged Economy," Economic Policy Institute, December 2016.

Endnotes

1. Office of Management and Budget, *2016 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act*, 2016; see also Heidi Shierholz and Celine McNicholas, *Understanding the Anti-Regulation Agenda: The Basics*, Economic Policy Institute, April 11, 2017.

2. John Irons and Isaac Shapiro, *Regulation, Employment, and the Economy: Fears of Job Loss are Overblown*, Economic Policy Institute, April 12, 2011.

3. John Irons and Isaac Shapiro, *Regulation, Employment, and the Economy: Fears of Job Loss are Overblown*, Economic Policy Institute, April 12, 2011.

4. Josh Bivens, "Testimony before the Judiciary Subcommittee on Regulatory Reform, Commercial

and Antitrust Law," February 24, 2016; John Irons and Isaac Shapiro, *Regulation, Employment, and the Economy: Fears of Job Loss Are Overblown*, Economic Policy Institute, April 12, 2011.

5. U.S. Bureau of Labor Statistics, "Extended Mass Layoffs in 2012," *BLS Reports*, September 2013.

6. Cary Coglianese, Adam M. Finkel, and Christopher Carrigan, eds., *Does Regulation Kill Jobs?* (Philadelphia: University of Pennsylvania Press, 2014).

7. Nathan Goldschlag and Alexander T. Tabarrok, "Is Regulation to Blame for the Decline in American Entrepreneurship?" George Mason University Working Paper in Economics No. 15-11, December 2014.

8. Heidi Shierholz and Celine McNicholas, *Understanding the Anti-Regulation Agenda: The Basics*, Economic Policy Institute, April 11, 2017.

9. Heidi Shierholz and Celine McNicholas, *Understanding the Anti-Regulation Agenda: The Basics*, Economic Policy Institute, April 11, 2017, citing Christopher Cox, testimony before the House Committee on Oversight and Government Reform, October 23, 2008.

10. White House Office of the Press Secretary, "Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs," January 30, 2017; Economic Policy Institute, "Executive Order on Reducing Regulation and Controlling Regulatory Costs: EO 13771," *Policy Watch* (Perkins Project on Worker Rights and Wages), January 30, 2017.

11. Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President, "Regulatory Reform: Two-for-One and Regulatory Cost Caps," accessed January 25, 2018, at www.reginfo.gov/public/do/eAgendaEO13771.

12. Eric Lipton and Jasmine C. Lee, "Which Obama-Era Rules Are Being Reversed in the President Trump Era," *New York Times*, May 18, 2017. A CRA resolution either blocks a rule from taking effect or, if the rule has already taken effect, it prohibits the rule from continuing to be in effect. It also blocks any agency from issuing a new rule in "substantially the same form" as the disapproved rule—thus limiting options for restoring lost protections. (Technically, a disapproved rule could be reissued if Congress passed a bill specifically authorizing an agency to reissue the rule, but this is unlikely.)

13. Stuart Shapiro, "The Congressional Review Act, Rarely Used and (Almost Always) Unsuccessful," *The Hill*, April 17, 2015; Eric Lipton and Jasmine C. Lee, "Which Obama-Era Rules Are Being Reversed in the President Trump Era," *New York Times*, May 18, 2017.

14. Many of the examples and descriptions provided here come from Celine McNicholas, Heidi Shierholz, and Marni von Wilpert, *Workers' Health, Safety, and Pay are among the Casualties of Trump's War on Regulations: A Deregulation Year in Review*, Economic Policy institute, January 29, 2018.

15. H.J. Res. 83, 115th Congress (2017); PL 115-21.

16. As noted on the informational page about the May 2016 final rule on OSHA's website, "Behavioral economics tells us that making injury information publicly available will 'nudge' employers to focus on safety" (U.S. Department of Labor, Occupational Safety and Health Administration, "Final Rule Issued to Improve Tracking of Workplace Injuries and Illnesses" [webpage], accessed January 25, 2018, at www.osha.gov/recordkeeping/finalrule). For the full text of the May 2016 rule, see Improve Tracking of Workplace Injuries and Illnesses, 81 Fed. Reg. 29624 (May 12, 2016).

17. On June 27, 2017, OSHA proposed to push back the compliance date to December 1, 2017. On

November 22, 2017, OSHA announced a further delay, to December 15, 2017. Finally, on December 18, 2017, OSHA announced that it would "not take enforcement action against those employers who submit their reports after the December 15, 2017, deadline but before December 31, 2017, final entry date." See U.S. Department of Labor, Occupational Safety and Health Administration, "US Labor Department's OSHA Proposes to Delay Compliance Date for Electronically Submitting Injury, Illness Reports" [news release], June 27, 2017; U.S. Department of Labor, Occupational Safety and Health Administration, "U.S. Department of Labor's OSHA Extends Compliance Date for Electronically Submitting Injury, Illness Reports to December 15, 2017" [news release], November 22, 2017; U.S. Department of Labor, Occupational Safety and Health Administration, "U.S. Labor Department's OSHA Accepting Electronically Submitted Injury, Illness Reports through December 31" [trade release], December 18, 2017.

18. U.S. Department of Labor, Occupational Safety and Health Administration, "U.S. Department of Labor's OSHA Extends Compliance Date for Electronically Submitting Injury, Illness Reports to December 15, 2017" [news release], November 22, 2017; Improve Tracking of Workplace Injuries and Illnesses: Delay of Compliance Date, 82 Fed. Reg. 55761 (November 24, 2017).

19. U.S. Department of Labor, Bureau of Labor Statistics, "National Census of Fatal Occupational Injuries in 2016" [news release], December 19, 2017.

20. Occupational Exposure to Beryllium, 82 Fed. Reg. 2470 (January 9, 2017).

21. Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors, 82 Fed. Reg. 29182 (June 27, 2017).

22. U.S. Department of Labor, Occupational Safety and Health Administration, "US Labor Department's OSHA Publishes Proposed Rule on Beryllium Exposure" [news release], June 23, 2017.

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