



## LEGISLATIVE ALERT

February 12, 2024

Dear Representative:

On behalf of nearly 15 million workers and 63 affiliate unions represented by the AFL-CIO, I write to express our strong opposition to H.R. 77, the Midnight Rules Relief Act.

This bill would amend the Congressional Review Act (CRA) to allow Congress to combine into one joint resolution of disapproval all rules finalized by federal agencies near the end of a presidential term. The CRA currently provides an expedited process for a new Congress and President to overturn a rule without providing evidence of the need for this action and no public input.

The proposed legislation is based on a fatally flawed premise—namely, that regulations proposed or finalized at the end of a presidential administration are rushed and inadequately vetted. In fact, the very opposite is true. Significant regulations go through a lengthy, extensive process of development, analysis, review, and public input. They take years or even decades to promulgate. Silica standards issued by the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) were more than 40 years in the making, and delays in these and other rules cost thousands of workers their lives and led to irreversible, debilitating lung disease that literally takes the breath away from workers.

The use of the CRA has become politicized and undermines the rulemaking process. H.R. 77 would supercharge the already expedited procedures under the CRA, allowing rules issued towards the end of an administration to be wiped off the books in one fell swoop, with almost no time for consideration or reasonable debate of individual rules. This action would be overreaching and wastes government resources on rules that had already been thoroughly analyzed by experts in their respective fields. Agency rules are already subject to and can only be finalized after an extensive public comment period, expert analysis has been considered, and accountability safeguards are put in place.

The development and issuance of these important regulations help ensure safe workplaces, health standards, and other protections. H.R. 77 would nullify important rules established by job safety agencies such as OSHA and the MSHA that regulate dangerous working conditions and provide very basic protections—such as making sure personal protective equipment (PPE) fits construction workers—without adequate scientific examination. Ill-fitting PPE contributes to significant workplace injuries and fatalities: In 2023, the construction industry had the highest number of fatalities among all industries.

This bill would also permit the broad sweeping repeal of commonsense protections under the Toxic Substances Control Act that our workers and the public depend on, upending protective rules that address deadly chemicals such as asbestos, methylene chloride, and PFAS. Singlehandedly, H.R. 77 would allow a single resolution to repeal numerous rules at once without evidence, eliminating imperative safeguards that protect both workers and the public from exposure to toxic chemicals and other workplace hazards.

The lives of millions of workers have been saved by strengthening these workplace protections, not abandoning them.

H.R. 77 could also lead to the expedited repeal of two important regulations that are designed to improve access to quality long-term care. The Medicaid Access rule, promulgated in April of 2024, addressed the chronic shortage of home care workers that forced many Medicaid beneficiaries into more expensive and more restrictive nursing home care. To address the inadequate compensation that forced many home care workers to pursue other work, the rule requires that home care agencies dedicate at least 80% of Medicaid funding to worker compensation; the rule limited the amount of Medicaid funding that could go to administrative costs and profits. The other important healthcare regulation that would be endangered by H.R. 77 is the Minimum Staffing Standards for Long-Term Care Facilities. This regulation was the result of a lengthy administrative process that included a scientific review, a request for information, listening sessions with stakeholders, and a proposed rule. The final rule, which will follow the recommendations of numerous blue ribbon panels and expert commissions, will improve staffing at the poorest-performing nursing homes. When fully implemented, this rule is expected to save at least 13,000 lives annually and significantly reduce injuries for tens of thousands of nursing home workers in under-staffed facilities.

The AFL-CIO urges you to oppose the Midnight Rules Relief Act and ensure no further delays in issuing crucial worker and public protections.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody Calemine".

Jody Calemine  
Director, Government Affairs