

# **PROTECTION REJECTION:** **G.O.P Abandons Consumer, Health, Safety Measures**

Prepared by the Office of  
Congressman Edward J. Markey (D-Mass)



**SAFETY OF AMERICAN WORKERS**

**PATIENT PRIVACY**

**CARE FOR VETERANS**

**KEEPING OIL PRICES LOW**

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# Introduction

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When Congress passes a law and the President signs it, the changes do not take effect immediately. Frequently, the law must be interpreted and implemented by one of several federal agencies, such as the Department of Health and Human Services or the Department of Labor. Legislative provisions that require such a rulemaking process cannot be implemented, or work, for the American people until the rule is finalized.

Congressional Republicans have launched an assault on many of the protections that have been enacted into law but have not yet been finalized under the rulemaking process. In February 2012, Republicans introduced H.R. 4078. The Regulatory Freeze for Jobs Act, will be considered this week on the floor or the House of Representatives.

This legislation would drastically limit how and when new government rules and protections can be issued. Passage of this bill would place a moratorium on significant new regulations, freezing these protections until the national unemployment rate drops below six percent.

Despite evidence to the contrary, Republicans arbitrarily tie agency regulatory activity to the national unemployment rate. Surveys of small business owners, including surveys conducted by the U.S. Chamber of Commerce, show that “economic uncertainty” and “poor sales” - not regulation - are their greatest concerns.<sup>1</sup>

Not only will this legislation fail to lower the national unemployment rate; it purposely adds layers of bureaucracy that needlessly delay critical regulations that will help protect the safety of American workers, protect health privacy, ensure care for wounded veterans, and preserve our environment.

The White House has issued a veto threat for the bill, citing that it would “undermine critical public health and safety protections” and “introduce needless complexity and uncertainty in agency decision-making”.

This report, prepared by the office of Congressman Edward J. Markey (D-Mass.), top Democrat of the Natural Resources Committee and senior member of the Energy and Commerce Committee, details some of the most serious impacts of the so-called Regulatory Freeze for Jobs Act.

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<sup>1</sup>[http://sensible safeguards.org/assets/documents/surveys\\_show\\_regs\\_not\\_major\\_concern.pdf](http://sensible safeguards.org/assets/documents/surveys_show_regs_not_major_concern.pdf)

# Harms Patient Privacy

## Blocks Patients From Obtaining Information About Who Accessed Their Health Information and Why

As part of the American Recovery and Reinvestment Act (ARRA) of 2009, Congress passed into law a number of new privacy protections for patients health data. However, the new protections cannot take effect unless the Department of Health and Human Services is able to implement them. One of the protections included in ARRA gives patients added control over their health records — they can now receive an accounting of any disclosures that were made in order to carry out medical treatment or to process payments. This additional transparency can help patients prevent and detect medical identity theft.

The Regulatory Freeze Act could make it harder for patients to protect themselves from medical identity theft by taking away their right to obtain more information about who accessed their personal health information and why.

### CASE STUDY: Stolen Identity

A Texas man, struggled with the effects of medical identity theft for more than a decade. Another individual forged a Blue Cross Blue Shield medical ID card, and used it — in addition to the victim's Social Security Number and date of birth — to **procure numerous medical services across the country**. The thief used the stolen identity for visits to the emergency room, radiology appointments, and even orthopedic surgery — racking up huge bills that he never paid and **devastating the victim's credit**.

## Jeopardizes New Patient Privacy Protections

HHS is also in the process of implementing other privacy, security, enforcement, and breach notification provisions of Subtitle D of the Health Information Technology for Economic and Clinical Health (HITECH) Act, incorporated as Title XIII of ARRA. However, they have yet to be finalized.<sup>2</sup>

The HITECH Act expanded the types of entities directly responsible for protecting the privacy of its clients' health data. Previously, health care providers and insurers were directly responsible for this data. Other entities that work with providers or insurers — like billing services, shredding companies, storage companies, and information technology providers — were not held directly responsible for breaches. These entities, known as "business associates", have historically had to comply with certain Health Insurance Portability and Accountability Act (HIPAA) requirements only as a part of their contract with the actual healthcare provider or insurer.

Thanks to the HITECH Act, business associates are now held directly responsible for breaches of their clients' health information and, thus, subject to direct oversight and penalties by HHS. However, the law is largely toothless until this rule goes into effect and HHS actually has the ability to enforce this new law.

The Regulatory Freeze Act could jeopardize patient privacy by blocking HHS from holding companies fully accountable for breaches of a patient's personal health information.

<sup>2</sup>[http://sensiblesafeguards.org/assets/documents/surveys\\_show\\_regs\\_not\\_major\\_concern.pdf](http://sensiblesafeguards.org/assets/documents/surveys_show_regs_not_major_concern.pdf)

# Denies Crucial Insurance Protections

## Allows Discrimination Based on Pre-Existing Conditions

The Affordable Care Act stopped health insurance companies from discriminating against people based on pre-existing conditions, such as asthma, diabetes, or cancer. It ensured that women no longer have to pay higher premiums for the same coverage. And it stopped insurance companies from kicking people off their plan if they became too sick.

The Regulatory Freeze Act would deprive consumers of these important new protections, as it blocks federal agencies from full implementation.

## Allows Discrimination Based on Genetic History

Health and Human Services (HHS) has proposed a rule to implement Title I of the Genetic Information Non-Discrimination Act (GINA) of 2008, which protects people from being discriminated against by their insurance company because of their genetic information. According to the legislation, Congress enacted GINA to “establish a national and uniform basic standard [that] is necessary to fully protect the public from discrimination and allay concerns about the potential for discrimination, thereby allowing individuals to take advantage of genetic testing, technologies, research, and new therapies.”<sup>3</sup>

In order for these protections to go into place, HHS

must be able to enact Section 105 of the law, which is entitled “Privacy and Confidentiality” and applies HIPAA privacy protections to genetic information. It ensures that health insurance companies and issuers of Medicare supplemental policies are forbidden from using or disclosing genetic information in order to deny them coverage, charge a higher premium, or refuse to renew their health policy.

The Regulatory Freeze Act would leave people vulnerable to insurance discrimination because of their genetic history.

### CASE STUDY: Denied Coverage

A 28-year-old woman tested positive for BRCA-1, one of the genes that indicates a predisposition to breast cancer. When she applied for insurance, she reported that she had undergone prophylactic mastectomies and a hysterectomy.

Her insurance company requested her medical records, which included her genetic history – even though the woman was not asked about her genetic history on the insurance application.

The **insurance company denied her coverage** because of her positive BRCA-1 test result.<sup>4</sup>

<sup>3</sup>GINA Section 2(5)

<sup>4</sup>Faces of Genetic Discrimination, *National Partnership for Women and Families*. July 2004.

# Raises Health Care Costs for Millions

## Denies Middle Class Healthcare Tax Cuts

The Affordable Care Act included significant tax cuts for middle-class American families to make health insurance more affordable. Eighteen million middle-class families that do not receive health insurance through their job or through a government program would be eligible for tax credits to help them afford their monthly premium costs.

Take, for example, a family making \$50,000. The average cost of a health insurance plan runs about \$14,000. Under the health reform law, this family could be eligible for a tax cut of \$11,000, which they would use to cover their health insurance premiums. The family would be able to receive this financial assistance on an ongoing basis, so that they could use it throughout the year to lower the cost of their health insurance plan.

The law also provides for additional financial assistance to help that family cover other healthcare-related costs, including co-payments.

However, implementation of this key provision requires federal agencies to implement a number of regulations. Families without employer-sponsored insurance will be able to buy a plan—and apply their tax credits—through future insurance marketplaces known as “exchanges”.

According to the Congressional Budget Office, “delaying...regulatory actions could delay implementation of health insurance exchanges.” Without the exchanges up and running, millions of

Americans could be denied the tax credits they need to access healthcare services for themselves and their families.

By delaying regulations necessary to implement the health care tax cut, The Regulatory Freeze Act would increase health care costs for millions of families.

# Jeopardizes Seniors' Access to Health Care

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## Denies Millions of Dollars to Medicare Doctors

Every year, doctors who treat seniors on Medicare receive an increased payment to reflect the rising cost of inflation. Without this annual update, many doctors would be unable to treat their Medicare patients or would be unable to afford to take on new patients.

According to the Congressional Budget Office (CBO), the Regulatory Freeze Act would prevent these annual updates for many of these doctors, leading to lay-offs and reducing access to care for seniors.

For example:

- 440 long-term care hospitals would be denied \$100 million in payment updates
- Thousands of dialysis facilities would lose \$320 million in Medicare payments
- 3,400 hospitals would lose \$175 million in payments that are meant to cover the rising cost of providing care

The Regulatory Freeze Act would cut payments to doctors, making it harder for these healthcare providers to continue treating seniors on Medicare.

# Restricts Families' Ability to Care for Wounded Veterans

## Prevents Family Members from Taking Unpaid, Job-Protected Leave to Care for a Wounded Veteran

In 2010, Congress expanded the Family and Medical Leave Act (FMLA) to ensure that employees could take time off to care for a veteran who suffered a serious illness or injury as a result of their service to our nation.

Generally, FMLA entitles employees to take up to 12 weeks of unpaid – and job-protected – leave in order to care for a family member. The employee is entitled to this time off for several specified reasons, including: the birth or adoption of a child, caring for a family member with a serious health condition, or the employee's own serious health condition. FMLA was later amended to provide extended time off – up to 26 weeks – for an employee to care for a service member with a serious injury incurred in the line of duty.

However, some injuries do not manifest until years later, by which time the individual has left military service. Before these changes, "FMLA leave for military caregiving was only available to employees caring for family members who were current service members."<sup>5</sup>

Thanks to the legislation passed in 2010, the Department of Labor is in the process of implementing changes that will allow employees to take up to 26 weeks off from work to care for recent veterans with a serious illness or injury, including conditions that do not arise until after the veteran left the military.<sup>6</sup> Employees would be able to take this time to care for veterans who have been discharged within the previous five years and who have a serious illness or injury incurred in the line of duty.

The Regulatory Freeze Act would prevent a family member from taking up to 26 weeks of unpaid, job-protected leave to care for a veteran who was seriously injured while serving his country.

<sup>5</sup><http://www.dol.gov/whd/fmla/NPRM/index.htm>

<sup>6</sup><http://webapps.dol.gov/FederalRegister/HtmlDisplay.aspx?DocId=25830&AgencyId=14&DocumentType=1>



# Puts American Workers in Harm's Way

## Exposes Millions of Workers to Deadly Respiratory Disease

The Occupational Health and Safety Administration (OSHA) is in the process of updating workplace safety standards for people exposed to crystalline silica, a dangerous dust, that poses a major occupational hazard for nearly two million American workers.<sup>7</sup>

Workers exposed to the substance for several years can develop silicosis, a severe and potentially fatal respiratory disease. Silicosis is caused when workers breathe in small particles of crystalline silica. The particles become trapped in the lungs, causing swelling in the surrounding areas. Over time, the swelling increases and begins to cause difficulty breathing, lung failure, and eventually death.

The agency's current standard is now more than 50 years old. According to OSHA, those in high-risk jobs such as quarry work and tunneling, stonecutting, and abrasive blasting are at particularly high risk of exposure. Additionally because crystalline silica is a common additive used in hydraulic fracturing operations, workers on natural gas operations may also be at risk. Furthermore:

“The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur in sandblasters and rockdrillers. Crystalline silica has been classified as a human lung carcinogen. Addition-

ally, breathing crystalline silica dust can cause silicosis, which in severe cases can be disabling, or even fatal. The respirable silica dust enters the lungs and causes the formation of scar tissue, thus reducing the lungs' ability to take in oxygen. There is no cure for silicosis.”<sup>8</sup>

Delaying new safety standards for crystalline silica exposure, as the Regulatory Freeze Act proposes, will ensure that millions of workers will continue to be sickened and potentially die due to silicosis.

### CASE STUDY: Dead By 39

Tom Ward of Woodhaven, Michigan testified in April 2012 before the Senate Health, Education, Labor and Pensions (HELP) Committee about losing his father to silicosis at the age of thirteen. His father was a sandblaster for five years. Tom recalled going to work with his dad and the effort he put into blasting and priming old rusty truck frames, making them look as good as new.

Several years later, Tom's father started getting short of breath, and a doctor diagnosed him with silicosis. **He was just 34 years old at the time of his diagnosis and was dead by 39.** In the end, Tom testified, his father's disease “suffocated him”.<sup>9</sup> With every passing week, overexposure to silica sickens another worker to the point where they will eventually die.<sup>10</sup>

<sup>7</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201104&RIN=1218-AB70>

<sup>8</sup><http://www.osha.gov/Publications/osha3177.pdf>

<sup>9</sup>Time Takes its Toll: Delays in OSHA's Standard-Setting Process and the Impact on Worker Safety, Testimony of Tom Ward submitted to the U.S. Senate Committee on Health, Education, Labor and Pensions, April 19, 2012.

<sup>10</sup>[http://www.demos.org/sites/default/files/publications/Costs\\_Of\\_RegulatoryDelay\\_Demos.pdf](http://www.demos.org/sites/default/files/publications/Costs_Of_RegulatoryDelay_Demos.pdf)

# Puts American Workers in Harm's Way

## Jeopardizes the Lives of Power Line Workers

Occupational Safety and Health Administration (OSHA) is also in the process of revising the safety standards for power line workers. According to the Office of Management and Budget (OMB), "the construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old."<sup>11</sup>

The revised standard will protect workers from electrocution during maintenance of these facilities as well as reduce the number of power line workers that are killed each year due to the electrical hazards they face on the job. Currently, there are about 50 deaths per 100,000 power line workers each year.

The standards that OSHA is working on would improve the safety of the work practices and protective equipment used during the construction and maintenance of electric power systems.

By placing a moratorium on new safety standards for power line workers, as the Regulatory Freeze Act proposes, hundreds of additional workers could lose their lives.

### CASE STUDY: The Need for New Standards

The need for these new standards is highlighted by the case of Douglas Pollander, a power line worker from Arlington, Massachusetts, who was killed at the age of 44 while trying to end a power outage in Cambridge, Massachusetts.

An initial explosion caused by a faulty cable caused a blackout at the Massachusetts Institute of Technology and other sections of Cambridge on August 7, 1997. Mr. Pollander, who had worked for the company for 17 years, was working to restore power when **a second explosion killed him** and injured several other employees and a police officer. Mr. Pollander left behind six children and a grandson.<sup>12</sup>

CONSAD Research Corporation conducted a study of fatalities among power line workers and determined the probability that the death would have been prevented under OSHA's new proposed standards. For Mr. Pollander, CONSAD estimates that there is a **96 percent chance that the new safety standards could have saved his life.**<sup>13</sup>

<sup>11</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=1218-AB67>

<sup>12</sup>Obituaries: Douglas Pollander, 44 ComElectric cable splicer, *Boston Globe*, August 9, 1997.

<sup>13</sup><http://consad.com/index.php?page=analytical-support-and-data-gathering-for-a-preliminary-economic-analysis-for-a-proposed-standard-for-work-on-electric-power-generation-transmission-and-distribution-lines-and-equipment-2>

# Devastates the Environment

## Leaves Oceans Vulnerable to More Oil Spills

On April 20, 2010, an explosion aboard the BP operated Deepwater Horizon drilling rig in the Gulf of Mexico exploded, resulting in the worst offshore environmental disaster this country has ever seen. For 87 days, oil gushed into the ocean, destroying wetlands and forming several mile long underwater plumes of oil whose long term impacts are still not understood.

Eleven men died aboard the rig explosion and a subsequent investigation found that the source of the explosion and subsequent leak was the blow-out preventer (BOP), equipment intended to shut down the well and stop oil flow in the event of an emergency.

Following the investigation into the cause of the BP oil disaster, the Department of Interior (DOI) announced plans to propose new regulations to increase the reliability of blow-out preventers. The rule will respond to problems in this equipment exposed by the Deepwater Horizon catastrophe and impose new design requirements to help ensure that the blowout preventer works as intended, protecting lives and preventing future oil spills. Although the rules have not yet been proposed, the DOI has indicated that they intend to do so in September 2012. These new standards to ensure that another Deepwater Horizon incident could be prevented would be blocked by the Regulatory Freeze Act.

The Regulatory Freeze Act would increase the chances of another offshore oil disaster occurring in the Gulf of Mexico or coast of Alaska and may put rig workers lives in harms way.

### CASE STUDY: Losing a Brother

Chris Jones, brother of Gordon Jones, a crew-member aboard the Deepwater Horizon rig, who lost his life in the explosion resulting from the faulty blowout preventer, testified before Congress on the loss of his brother's life.<sup>15</sup> Gordon Jones was survived by a wife and two sons under the age of three.

**"No one denies that my brother's death, and the death of the other ten men, could and should have been prevented...companies engaged in oil exploration should do everything in their power to prevent accidents that have such horrible consequences. In the case of the Deepwater Horizon, they did not."**

## Allows Offshore Oil Wells to Remain Idle or Abandoned, Posing Environmental and Safety Hazards

Well abandonment is an inevitable stage in the life of a well. After offshore oilfields stop producing or shift from being an asset to liability for the operator, they must be dismantled carefully to minimize environmental threats and adhere to regulatory requirements. Globally, an estimated 20,000 idle wells have been identified for abandonment, with 60 percent of those located in the Gulf of Mexico. Some idle wells can sit for five years or longer, being damaged by hurricanes or strong winds with no requirements for them to be safely and competently plugged and abandoned. This can cause the unplugged wells to leak oil, and the aged and disrepair rigs and pipelines to become an environmental, safety or public health hazard.

<sup>15</sup><http://naturalresources.house.gov/UploadedFiles/C.JonesTestimony03.16.11.pdf>

# Devastates the Environment

The Department of Interior Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) is revising the requirements and timing for decommissioning abandoned drilling facilities.<sup>16</sup> This rule would provide for a three year idle time period for an operator to put forward a plan, including a timeframe and methodology to safely dismantle or abandon the offshore drilling infrastructure.

The Regulatory Freeze Act would result in offshore drilling rigs remaining idle in the Gulf of Mexico for long periods of time, where they are subject to aging and damage by hurricanes, without having to be properly plugged or disassembled.

streams and rivers sustain rural communities, providing fresh drinking water and supports activities including recreational fishing and swimming.

Some mountaintop mines are now exporting 90 percent of the coal they produce.<sup>18</sup> Yet, the environmental devastation that the process of mountaintop mining leaves behind is only experienced by the nearby Appalachian communities that are blanketed with soot and live with contaminated drinking

The Regulatory Freeze Act would prevent the development of a rule that would protect Appalachian communities from the devastating consequences of mountaintop removal mining, leaving critical waterways vulnerable to destructive coal mining practices.

## Destroys Our Streams

The Department of Interior Office of Surface Mining Reclamation and Enforcement (OSM) is developing a rule to better protect streams from the adverse effects of coal mining.<sup>17</sup> This rulemaking effort fulfills a commitment set out in a June 2009 Memorandum of Understanding among the U.S. Department of the Interior, Environmental Protection Agency, and the Army Corps of Engineers to reduce the environmental impacts of coal mining in Appalachia, such as burying streams with mine waste.

In the last 30 years, nearly 2,000 miles of streams throughout Appalachia have been permanently buried. The Environmental Protection Agency estimates mountaintop removal mining buries an additional 120 miles of streams every year. These

### CASE STUDY: Covered in Dust

Consider the aptly named Twilight mine in Boone County, West Virginia, which in 2011 raked in an estimated \$40 million from exporting mountaintop coal. After mining began in 1997, nearby residents grew weary of breathing dust-laden air inked to cancer and heart disease. Many opted to sell their properties to the mine's owner, Massey Energy, and communities were transformed into ghost towns.

One former resident of Boone County explained to the *New York Times*, "You could wash your car today, and tomorrow you could write your name on it in the dust... It was just unpleasant to live in that town. Period."<sup>19</sup>

<sup>16</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=1010-AD61>

<sup>17</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=1029-AC63>

<sup>18</sup>[http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/Our\\_Pain\\_Their\\_Gain1.pdf](http://democrats.naturalresources.house.gov/sites/democrats.naturalresources.house.gov/files/documents/Our_Pain_Their_Gain1.pdf)

<sup>19</sup>Barry, Dan. "As the Mountaintops Fall, a Coal Town Vanishes." *New York Times* 21 Apr. 2011.

# Limits Hunting Rights

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## Restricts Hunting of Migratory Game Birds

In order for individuals to hunt migratory birds, they must hold a permit issued by the Fish and Wildlife Service (FWS). Each year, the FWS initiates a regulatory process to prepare the hunting season framework, including permissible harvest levels informed by that year's migratory bird population status and habitat conditions. On April 17, 2012, FWS issued a proposed rule allowing migratory bird hunting and establishing parameters for the 2012-2013 hunting season.<sup>20</sup>

The Regulatory Freeze Act would prevent people from hunting migratory game birds, whether for recreation or sustenance. It would also limit Federal, State, and tribal governments' ability to manage migratory game bird population levels.

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<sup>20</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=1018-AX97>

# Gouges Consumers at the Pump

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## Lets Wall Street Oil Speculators Cause More Pain at the Pump

The Wall Street Transparency and Accountability Act of 2010 took steps to shield American families from wild price swings at the gas pump, but these protections cannot take effect until certain regulations go into place. While prices used to be dictated by supply and demand, they are now driven up by speculators placing self-fulfilling bets that oil prices will rise. The Commodity Futures Trading Commission (CFTC) is in the process of issuing several regulations, which would prevent the excessive speculation in commodity markets that needlessly drives up prices at the pump.<sup>21</sup>

The Regulatory Freeze Act could result in higher gas prices for American consumers by preventing the CFTC from implementing changes to limit excessive oil speculation.

## Prevents New Tailpipe Emission Standards That Reduce Gas Consumption

As part of a historic agreement with automakers, unions, the State of California and environmental organizations, the Obama administration recently proposed regulations to further accelerate the implementation of the 2007 Energy Independence and Security Act and increase fuel economy standards to 54.5 miles per gallon by 2025.

These 2017-25 standards would remove the need for 1.5 million barrels of oil per day by 2030 and 2.4 million barrels of oil per day by 2040, thereby reducing our need for foreign oil, enhancing our national and economic security and saving consumers billions of dollars for gasoline they would no longer need to buy.

The Regulatory Freeze Act would increase our dangerous dependence on foreign oil and cause consumers to have to pay more to fill up their cars by preventing these regulations from being finalized.

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<sup>21</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=3038-AC97> and <http://www.cftc.gov/ucm/groups/public/@Irfederalregister/documents/file/2012-12526a.pdf>

# Endangers Children's Online Privacy

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## Blocks Protections for Children Online

The Federal Trade Commission (FTC) is seeking to update the Children's Online Privacy Protection Act (COPPA) – the communications constitution for safeguarding children online. While COPPA offers children age 12 and under many important protections when they use the Internet, the law, which Congress passed in 1999, needs to be updated to reflect today's changing technological landscape.

Among the multiple proposed changes, the FTC's proposed rule would update the definition of personal information to include geolocation information, so companies would be prevented from collecting this data about children.<sup>14</sup> The rule would also expand the definition of personal information to include other ways marketers identify users, including tracking cookies used for behavioral advertising.

Without these changes, companies could market products at young and impressionable children. For example, consider the young girl who searches online for diet information: as a result of this one search, she could see weight loss ads every time she goes online because some ad networked profiled her as a "young female interested in weight loss".

The Regulatory Freeze Act would put children at risk online, making it easier for companies to target advertisements at them and sell their personal information to the highest bidder.

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<sup>14</sup><http://ftc.gov/os/2011/09/110915coppa.pdf> and <http://ftc.gov/opa/2011/09/coppa.shtm>

# Makes Food Less Safe

## Blocks New Food Safety Standards

In 2010, Congress passed the Food Safety Modernization Act in response to numerous outbreaks of illness and even death due to food contaminated with various strains of bacteria. The law, if fully implemented, will raise standards of safety and cleanliness of food production and distribution.

This law will also increase the Food and Drug Administration's (FDA) focus on increasing surveillance and preventing the contamination of fresh produce, dairy, seafood, processed and imported foods rather than merely focusing on responding to incidents of contamination after people are harmed.<sup>22</sup> Focusing on prevention is especially important in light of the fact that 128,000 Americans are hospitalized each year due to a food borne illness and 3,000 die.

However, the law's ability to protect the public depends on the FDA's ability to implement the new food safety programs and surveillance systems through the rulemaking process. Consider the recent and frequent headlines about major incidents of contamination, including a 2011 outbreak of listeria due to contaminated cantaloupes that killed at least 13 people and sickened dozens more.

The Regulatory Freeze Act could place a moratorium on finalizing and implementing lifesaving food safety regulations.

## Puts Consumers at Risk of Contaminated Food from Foreign Countries

Currently, approximately 20 percent of the total U.S. food supply is imported from foreign countries, including about 70 percent of seafood. The Food Safety and Modernization Act of 2010 also strengthened FDA's ability to verify that food imported from foreign countries complies with the quality and safety standards that apply to domestic products.

Numerous outbreaks have made clear the need for better safety standards, including salmonella-contaminated yellowfin tuna from India, which infected more than 160 people, and salmonella-contaminated pet treats from China, which sickened hundreds of pets. According to the Office of Management and Budget (OMB):

The regulations will require that each importer have a foreign supplier verification program that is adequate to provide assurances that each foreign supplier produces food in compliance with: (1) Processes and procedures that provide the same level of public health protection as those required under section 418 (concerning hazard analysis and risk-based preventative controls) or section 419 (concerning produce safety standards) of the FD&C Act; and (2) sections 402 (concerning adulteration) and 403(w) (concerning major food allergens) of the FD&C Act.<sup>23</sup>

<sup>22</sup><http://www.citizen.org/documents/weissman-regulations-freeze-act-testimony.pdf>

<sup>23</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?publd=201110&RIN=0910-AG64>



# Makes Food Less Safe

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However, these protections cannot work for the American people unless FDA implements them through the rulemaking process, which is still underway.

The Regulatory Freeze Act could delay the implementation of new standards to ensure the safety and quality of food imported from foreign countries.

# Costs Taxpayers Billions in Lost Revenues

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## Prevents Federal Government From Raising Money By Auctioning Off Spectrum

The payroll tax relief legislation passed in February 2012, raises \$15 billion for the U.S. Treasury by incentivizing TV broadcasters to voluntarily sell spectrum they own. The law gives the Federal Communications Commission (FCC) the authority to pay TV broadcasters for underutilized broadcast spectrum and resell it at higher prices to wireless companies to meet the growing spectrum demands of smartphones and tablets. Selling this valuable spectrum will spur the creation of hundreds of thousands of jobs and billions of dollars in new investment.

On top of funds for deficit reduction, voluntary incentive auctions will also raise money to create a nationwide, interoperable broadband network for public safety officials. The law provides \$7 billion in auction proceeds and spectrum worth \$2.75 billion (called the “D Block”) to a new “First Responder Network Authority” to build a broadband network for police, firefighters, emergency medical service professionals, and other public safety officials.

The Regulatory Freeze Act could increase the deficit by putting the breaks on auctioning valuable spectrum that would have brought billions into the Federal treasury. The Act could further prevent creation of a nationwide broadband network for public network and stifle innovation in the wireless industry.

# Stalls Innovation and New Technology

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## Limits Patent Office's Ability to Bring New Innovations to Market

In May 2012, the Patent and Trade Office issued a proposed rule that would adjust the patent fees to reflect rising costs, so that the office could meet its goals and continue operating the patent system. The rule sets forth which fees will be adjusted, by how much, and how the adjustment will be calculated based on current fluctuations in the Consumer Price Index (CPI).

This could trigger the Regulatory Freeze Act's prohibition on rulemaking, since the increased fees could have an impact on a sector of the economy – namely, the scientists and innovators seeking a patent for their product. Of course, if the patent office is unable to operate the patent system due to a lack of resources, it will be unable to clear the existing backlog of patent applications and new technologies and innovations will be blocked from entering the market.<sup>24</sup>

The Regulatory Freeze Act could limit resources for the patent office and thus block new products, technologies and innovations from entering the market.

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<sup>24</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=0651-AC54>

# Exacerbates Government Waste

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## Promotes Waste in Food Stamp Program

In the Fall of 2011, the Department of Agriculture published a rule that, if implemented, would codify requirements that prisoners or people who have died are no longer eligible to receive food stamps. State agencies would report information on individuals disqualified from the program, whether because they are incarcerated, they committed an international program violation, or they have passed away.<sup>25</sup>

While this may seem like common sense, this rule could be prohibited by the Regulatory Freeze Act, since it requires states to increase reporting requirements.

The Regulatory Freeze Act could block efforts to ensure that only eligible people – and not people who are dead or in jail – receive food stamps.

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<sup>25</sup><http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201110&RIN=0584-AB51>