

April 11, 2013

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

The undersigned organizations strongly support the “Sunshine for Regulatory Decrees and Settlements Act of 2013.” This bill would take important steps to stop the abusive practice known as “sue and settle.” We urge the Committee to consider this important legislation and report it to the full Senate.

Organizations sue federal agencies to compel agencies to take specific actions, such as issuing new regulations. Behind closed doors, these organizations and agencies then enter into consent decrees and settlement agreements compelling the agencies to issue rules. The public and those regulated entities most affected by these rules are often not aware of these lawsuits and, even when they are, have an extremely difficult time when trying to intervene in the cases. Their only recourse is *after* the settlement has been agreed to by the agency—in essence, after the damage has been done.

Since enactment of the Administrative Procedure Act of 1946, the regulatory system has been built on the principles of public participation and open government. The sue and settle tactic allows agencies to circumvent these requirements and core principles built into the regulatory process that are in place to protect the public.

The intent of this legislation is to promote principles of good government, including openness and transparency, in the regulatory process. It would require that agencies provide timely notice of lawsuits and ensure that there is a sufficient opportunity for parties to intervene and provide public comments. Agencies would continue to be free to enter into settlement agreements and consent decrees that result in regulations; however, the public and regulated parties would no longer be excluded from participating in our regulatory system because of this “sue and settle” tactic.

The undersigned organizations thank Senator Chuck Grassley for introducing the “Sunshine for Regulatory Decrees and Settlements Act of 2013,” and look forward to working with the committee on this important legislation.

Sincerely,

60 Plus Association
Aluminum Association

American Architectural Manufacturers Association
American Coatings Association
American Coke & Coal Chemicals Institute
American Council of Engineering Companies
American Feed Industry Association
American Highway Users Alliance
American Hotel & Lodging Association
American Iron and Steel Institute
American Road & Transportation Builders Association
American Supply Association
Associated Builders & Contractors, Inc.
Associated Builders & Contractors, Inc. – Illinois Chapter
Associated Builders & Contractors, Inc. – Rhode Island Chapter
Associated Equipment Distributors
Associated Oregon Industries
Construction Industry Round Table
Council of Industrial Boiler Owners
Edison Electric Institute
Energy Equipment & Infrastructure Alliance
Far West Equipment Dealers Association
INDA, Association of the Nonwoven Fabrics Industry
Independent Electrical Contractors
Industrial Energy Consumers of America
Industrial Minerals Association – North America
International Sign Association
Kitchen Cabinet Manufacturers Association
Marine Retailers Association of the Americas
Metals Service Center Institute
National Association of Electrical Distributors
National Association of the Remodeling Industry
National Black Chamber of Commerce®
National Club Association
National Federation of Independent Business
National Industrial Sand Association
National Lumber and Building Material Dealers Association
National Renderers Association
National Roofing Contractors Association
National Small Business Association
National Stone, Sand & Gravel Association
National Tooling and Machining Association
North American Equipment Dealers Association
Nuclear Energy Institute
Petroleum Marketers Association of America
Precision Machined Products Association
Precision Metalforming Association
Property Casualty Insurers Association of America

Shipbuilders Council of America
South Carolina Timber Producers Association
U.S. Chamber of Commerce
Window and Door Manufacturers Association
Wisconsin Grocers Association
Wisconsin Manufacturers & Commerce

cc: the Members of the Senate Committee on the Judiciary