



# EARTHJUSTICE

June 8, 2016

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

**Re: Opposition to H.R. 4768, the “Separation of Powers Restoration Act of 2016”**

Dear Chairman Goodlatte and Ranking Member Conyers:

On behalf of Earthjustice, I respectfully urge you to oppose H.R. 4768, the so-called “Separation of Powers Restoration Act of 2016,” at the House Judiciary Committee markup on Wednesday, June 8. The bill is flawed and harmful and should not become law. Deference to reasonable agency interpretations of statutes pursuant to Chevron U.S.A., Inc., v. NRDC, 467 U.S. 837 (1984), is a longstanding and well-understood framework for judicial review that acknowledges the appropriate powers of the three constitutional branches in enacting, administering, and interpreting statutes. The bill would abandon this framework and upend more than 30 years of well-established administrative law.

H.R. 4768 would transfer to judges statutory-implementation power that Congress has previously delegated to the executive branch. Congress has the power to enact clear, prescriptive laws that establish criteria and boundaries around agency implementation of statutes. If Congress perceives the executive branch to be implementing statutes in a manner inconsistent with their enactment, the appropriate response is to enact clearer and more-prescriptive statutes, not to upend three decades of established, overarching caselaw as H.R. 4768 seeks to do.

At root, H.R. 4768 seems motivated by the dissatisfaction of the political party that currently controls Congress with the statutory-implementation decisions made by the current Administration, which is controlled by a different political party. These sorts of partisan disagreements are not an adequate reason to overturn more than 30 years of established caselaw governing federal administrative law. Accordingly, I urge you to vote no on H.R. 4768.

Thank you for your consideration.

Sincerely,

Brielle L. Green  
Associate Legislative Counsel