



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 29, 2011
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3010 – Regulatory Accountability Act of 2011

(Rep. Lamar Smith, R-Texas, and 36 cosponsors)

The Administration is committed to ensuring that regulations are smart and effective, that they are tailored to advance statutory goals in the most cost-effective and efficient manner, and that they minimize uncertainty. Accordingly, the Administration strongly opposes House passage of H.R. 3010, the Regulatory Accountability Act. The Regulatory Accountability Act would impose unprecedented procedural requirements on agencies that would prevent them from performing their statutory responsibilities. It would also create needless regulatory and legal uncertainty and increase costs for businesses, as well as state, tribal, and local governments, and further impede the implementation of commonsense protections for the American public.

The Regulatory Accountability Act would impose unnecessary new procedures on agencies and invite frivolous litigation. When a Federal agency promulgates a regulation, it must already adhere to the requirements of the statute that it is implementing. In many cases, the Congress has mandated that the agency issue the particular rule or regulation, and it often prescribes the process the agency must follow. Agencies must also adhere to the robust and well understood procedural requirements of the Administrative Procedure Act, and major rules are subject to the requirements of other Federal statutes such as the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, and the Paperwork Reduction Act. In addition, for decades, agency rulemaking has been governed by Executive Orders issued and followed by administrations of both political parties. These require regulatory agencies to promulgate regulations only upon a reasoned determination that the benefits of the regulations justify the costs, to consider regulatory alternatives, and to promote regulatory flexibility. Lastly, final regulations are subject to review by the Federal courts to ensure that agencies satisfy the substantive and procedural requirements of all applicable statutes and consider input from the relevant stakeholders.

Passage of H.R. 3010 would replace this time-honored framework with layers of additional procedural requirements that would seriously undermine the ability of agencies to execute their statutory mandates. It would require cumbersome “formal” rulemaking for a new category of rules, for which agencies would have to conduct quasi-adjudicatory proceedings. It would impose unnecessary new evidentiary standards as a condition of rulemaking. It would subject the regulatory process to unneeded rounds of litigation. Finally, the Regulatory Accountability Act would undermine the Executive Branch’s ability to adapt regulatory review to changing circumstances.

In these ways and others, the Regulatory Accountability Act would impede the ability of agencies to provide the public with basic protections, and create needless confusion and delay that would prove disruptive for businesses, as well as for state, tribal and local governments.

If the President were presented with the Regulatory Accountability Act, his senior advisors would recommend that he veto the bill.

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