



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

February 25, 2014
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2804 – ALERRT Act of 2013

(Rep. Holding, R- North Carolina, and 10 cosponsors)

The Administration is committed to ensuring that regulations are smart and effective, and that they are tailored to advance statutory goals in a manner that is efficient and cost-effective, while minimizing uncertainty. Accordingly, the Administration strongly opposes House passage of H.R. 2804, the Achieving Less Excess in Regulation and Requiring Transparency (ALERRT) Act of 2014. The bill would impose unneeded and costly analytical and procedural requirements on agencies that would prevent them from performing their statutory responsibilities. It would also create needless regulatory and legal uncertainty, increase costs for businesses and State, local and tribal governments, and impede common-sense protections for the American public.

The ALERRT Act would impose unnecessary new procedures on agencies and invite frivolous litigation. When a Federal agency promulgates a regulation, it already must 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 that the agency must follow. Agencies also must adhere to the robust and well-understood procedural requirements of Federal law, including the Administrative Procedure Act, the Regulatory Flexibility Act (RFA), the Unfunded Mandates Reform Act of 1995 (UMRA), the Paperwork Reduction Act (PRA), and the Congressional Review Act. In addition, for decades, agency rulemaking has been guided 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. Final regulations are subject to review by the Federal courts which, among other things, examine whether agencies have satisfied the substantive and procedural requirements of all applicable statutes, and whether they have considered input from relevant stakeholders.

With respect to the Regulatory Flexibility Act in particular, agencies already have in place procedures and policies, as required by executive orders and other presidential directives, to ensure that they take into account the consequences of rulemaking on small businesses. This Administration's commitment to promoting small businesses and ensuring that regulations do not unduly burden them also is reflected in Executive Order 13563, which requires agencies to examine existing regulations and to eliminate, streamline, or alter them where they are excessively burdensome.

Passage of H.R. 2804 would replace this time-honored framework with layers of additional, unnecessary 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. In addition, the bill would impose unnecessary new evidentiary standards as a condition of

rulemaking. Finally, the bill would subject the regulatory process to unneeded rounds of litigation, introduce redundant processes for litigation settlements, and require numerous, cumbersome layers of reporting.

If H.R. 2804 were presented to the President, his senior advisors would recommend that he veto the bill.

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