



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

December 6, 2011  
(House)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 10 – Regulations From the Executive in Need of Scrutiny Act of 2011

(Rep. Davis, R-Kentucky, and 204 cosponsors)

The Administration is committed to ensuring that regulations are smart and effective, and tailored to further statutory goals in the most cost-effective and efficient manner. Accordingly, the Administration strongly opposes House passage of H.R. 10, the Regulations From the Executive in Need of Scrutiny Act, which would impose an unprecedented requirement that a joint resolution of approval be enacted by the Congress before any major rule of Executive Branch agencies could have force or effect. This radical departure from the longstanding separation of powers between the Executive and Legislative branches would delay and, in many cases, thwart implementation of statutory mandates and execution of duly enacted laws, increase business uncertainty, undermine much-needed protections of the American public, and create unnecessary confusion.

There is no justification for such an unprecedented requirement. When a Federal agency promulgates a major rule, it must already adhere to the particular requirements of the statute that it is implementing and to the constraints imposed by other Federal statutes and the Constitution. Indeed, in many cases, the Congress has mandated that the agency issue the particular rule. The agency must also comply with the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551, et seq.). When it issues a major rule, the agency must perform analyses of benefits and costs that typically are required by one or more statutes (such as the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, and the Paperwork Reduction Act) as well as by Executive Order 12866.

In addition, this Administration has already taken numerous steps to reduce regulatory costs and to ensure that all major regulations are designed to maximize net benefits to society. Most recently, Executive Order 13563 requires careful cost-benefit analysis, increased public participation, harmonization of rulemaking across agencies, flexible regulatory approaches, and a regulatory retrospective review. Finally, agency rules are subject to Federal courts.

Moreover, for the past 15 years, the Congress itself has had the opportunity, under the Congressional Review Act of 1996 (CRA), to review on an individual basis the rules – both major and non-major – that Federal agencies have issued.

By replacing this well established framework with a blanket requirement of Congressional approval, H.R. 10 would throw all major regulations into a months-long limbo, fostering uncertainty and impeding business investment that is vital to economic growth. Maintaining an appropriate allocation of responsibility between the two branches is essential to ensuring that the Nation's regulatory system effectively protects public health, welfare, safety, and our

environment, while also promoting economic growth, innovation, competitiveness, and job creation.

If the President were presented H.R. 10, his senior advisers would recommend that he veto the bill.

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