



**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. 527 – Regulatory Flexibility Improvements Act of 2011

(Rep. Lamar Smith, R-Texas, and 26 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. 527, the Regulatory Flexibility Improvements Act. The Regulatory Flexibility Improvements Act 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 and increase costs for businesses and further impede the implementation of commonsense protections for the American public.

The Regulatory Flexibility Improvements Act would impose unnecessary new procedures on agencies and invite frivolous litigation. When a Federal agency promulgates a regulation, the agency must adhere to the robust and well understood procedural requirements of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act, as well as the Administrative Procedure Act and other federal statutes such as 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 justify the costs, to consider regulatory alternatives, and to promote regulatory flexibility. With respect to the Regulatory Flexibility Act in particular, agencies already have in place procedures and policies, as required by Executive Order 13272, to ensure that agencies take into account the consequences of rulemaking on small businesses. Furthermore, this Administration's deep commitment to promoting small business and ensuring that regulations do not unduly burden the Nation's small businesses 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, and the January 18 President Memorandum on Regulatory Flexibility, Small Business, and Job Creation. Furthermore, this Administration's deep commitment to promoting small business and ensuring that regulations do not unduly burden the Nation's small businesses 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. 527 would replace the existing framework with layers of additional procedural requirements that would seriously undermine the ability of agencies to execute their statutory mandates. It would unjustifiably expand the use of advocacy review panels, require excessive and unnecessary retrospective review of rules, and create needless grounds of judicial review and judicial remedies. It would also impose unrealistic analytic requirements on agencies far beyond the already rigorous existing requirements that promote commonsense regulation. In these ways and others, the Regulatory Flexibility Improvements 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 Flexibility Improvements Act, his senior advisors would recommend that he veto the bill.

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