



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

September 20, 2016
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3438 – Unnecessary Delay of Rules Act

(Rep. Marino, R-PA, and 32 cosponsors)

The Administration is committed to ensuring that the regulatory process remains efficient and effective, and is tailored to further statutory goals in the most cost-effective manner. H.R. 3438 would promote unwarranted litigation, introduce harmful delay, and, in many cases, thwart implementation of statutory mandates and execution of duly enacted laws. The legislation also would increase business uncertainty and undermine much-needed protections for the American public, including critical rules that provide financial reform and protect public health, food safety, and the environment. For these reasons, the Administration strongly opposes H.R. 3438.

The Unnecessary Delay of Rules Act would delay the implementation of "high-impact" rules until all legal challenges are fully exhausted or, if there is no legal challenge, until the end of a statutorily prescribed period. H.R. 3438 would require this delay of all rules without consideration of the merits of the challenge or the consequences of delay. These "high-impact" rules already must adhere to the particular requirements of the statute that the agency is implementing as well as the requirements of other Federal statutes and the Constitution. Indeed, in many cases, the Congress has mandated that the agency issue the particular rule. The agency also must comply with the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.). When issuing a major rule, an agency also 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. Furthermore, courts already have the discretion to delay rules on a case-by-case basis. Thus, the Unnecessary Delay of Rules Act is entirely unnecessary and would promote litigation designed only to delay rule implementation.

Given the extensive existing statutory framework already governing agency rules, the additional delays created by H.R. 3438 would needlessly endanger the welfare of the American public, while providing no benefit and creating a powerful incentive for litigation with little to no merit.

If the President were presented with H.R. 3438, his senior advisors would recommend that he veto the bill.

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