

The Regulations from the Executive In Need of Scrutiny (REINS) Act *Restoring Congressional Accountability for Burdensome Federal Regulations*

The Problem: The Constitution charges Congress with all legislative powers. Unfortunately, excessive delegation of that power to the Executive Branch has created a lack of accountability in Congress for many of the most burdensome federal regulations facing our job creators, local towns and families. Since many regulations are often written and updated years after laws are passed, many current Members of Congress are never required to support, oppose, or otherwise contribute to major federal regulations finalized under their watch.

Additionally, the Administration has made it clear that it intends to pursue a policy agenda through the regulatory process in the absence of Congressional action on key issues, such as climate change legislation. In February 2010, the New York Times quoted White House Communications Director Dan Pfeiffer as saying, “In 2010, executive actions will also play a key role in advancing [the Administration’s] agenda.”

The Solution: The REINS Act would **require** that Congress must affirmatively approve every new MAJOR rule proposed by the Executive Branch before it can be enforced on the American people. It also retains existing law permitting Congress to disapprove non-major rules (5 USC 801-808).

The REINS Act effectively constrains the delegation of Congressional authority by limiting the size and scope of rule-making permission. Once major rules are drafted, they must be approved by both bodies in Congress and signed by the President, satisfying the bicameralism and presentment requirements of the Constitution.

Through the REINS Act’s required accountability before a rule can be finalized, we believe that this will also have an effect on the quality of federal rules by reintroducing the importance of input from elected representatives into the rule-making process from the start. This ensures that the greatest regulatory burdens on our economy are necessary to promote the public welfare rather than simply sprouting from the minds of unelected bureaucrats in Washington.

Background information:

- In 2009, the federal government issued 3,316 new rules and regulations. **That is roughly 1.6 rules per working hour or 12.8 rules per working day.**
- A “major rule” is any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds may result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers; or significant adverse effects on the economy. **There were 94 final major rules in 2008 and 78 in 2009.**
- **One prime example of a major rule is the recent** Environmental Protection Agency (EPA) final rule establishing a mandatory greenhouse gas emissions reporting program

for sources with emissions that exceed 25,000 tons per year (74 Fed. Reg. 56,260). EPA estimates the cost of the rule at \$115 million for the first year and \$72 million on an annualized basis in subsequent years.

- A recent Congressional Research Service report finds that “the [Patient Protection and Affordable Care Act] gives federal agencies substantial responsibility and authority to ‘fill in the details’ of the legislation through subsequent regulations.” There are at least 40 provisions in the health care overhaul that require, permit or contemplate federal rulemaking.