



Nov. 29, 2011

## House GOP Expands Regulation Fight

By Geof Koss, CQ Staff

House Republicans are making good on pledges to try to shrink the size of government by bringing legislation to the floor in coming days that would restrain the regulatory powers of executive branch agencies.

The House already has passed bills this year targeting specific regulations, especially those from the EPA. But the upcoming measures collectively represent a wholesale attempt to overhaul the federal regulatory apparatus by imposing new cost-benefit considerations on rulemaking, requiring congressional approval for rules with major economic effects and making it easier for outside parties to challenge agency actions in courts.

For instance, legislation ([HR 3010](#)) the House is scheduled to debate Thursday would outline new steps for regulators to follow under the Administrative Procedure Act of 1946 ([PL 79-404](#)), including dictating that federal agencies select the “least costly” options when writing rules.

Additionally, the bill would force agencies to consider the “indirect” costs of regulation when determining the economic benefits of a proposed rule, a requirement that Democrats and consumer advocates complain is too vague.

Federal agencies would have to consider the indirect costs of regulations on small businesses under another bill ([HR 527](#)) that is also slated for debate Thursday. That measure would require agencies to periodically review the effectiveness of existing regulations, while handing the Small Business Administration new authority to intervene in rulemaking that affects smaller companies.

Both bills — sponsored by House Judiciary Chairman [Lamar Smith](#), R-Texas — would also make it easier for industry and other outside interest groups to challenge agency actions in federal court.

A third bill ([HR 10](#)), sponsored by Kentucky Republican Rep. [Geoff Davis](#), would require congressional approval of regulations with an annual economic cost of \$100 million or more. The measure is scheduled to be considered Thursday by the House Rules Committee, with a floor debate expected next week.

Industry has long sought the rulemaking changes, which supporters maintain will create jobs and boost the economy by limiting unnecessary regulations. Critics charge that the bills would undercut public health and consumer protections by tying the hands of regulators.

“Each of these bills would make it virtually impossible for federal agencies to ensure that American families are protected from tainted food, unsafe drugs, predatory financial schemes, dirty air and water, and dangerous workplaces,” wrote the Coalition for Sensible Safeguards, which includes more than 70 consumer and public interest groups, in a Tuesday letter to lawmakers.

The measures “are dangerous proposals that will not create one new job or solve any of the pressing problems facing our country,” wrote the coalition, which includes Public Citizen and OMB Watch. “Instead, they will waste federal resources and increase the power of big corporations over American families.”

Public Citizen President Robert Weissman said the coalition is reaching out to lawmakers, including wavering Democrats, to make its case about the far-reaching implications of the bills, which he said are being promoted as “bipartisan, procedural and technical” changes by their sponsors.

“All three would have the effect of derailing the regulatory process,” said Weissman, who along with Rep. [Gerald E. Connolly](#), a Virginia Democrat, will participate in a Wednesday conference call rallying against the bills.

In addition, the House and the National Labor Relations Board have scheduled for Wednesday dueling votes about union elections.

The House plans to take up a bill ([HR 3094](#)) that would counter a proposed rule that the NLRB is expected to vote on in the afternoon. The rule would speed up the elections by postponing voter eligibility challenges, while the House measure, sponsored by Education and the Workforce Chairman [John Kline](#), a Minnesota Republican, would mandate that workers wait at least 35 days before joining a union once petitions have been filed seeking the vote.

### Not Enough Support in Senate

While House passage of the three bills appears all but assured, similar regulatory overhauls have fallen well short of the 60 votes needed to pass in the Senate in recent months.

The chamber voted twice this month against broad amendments that contained a companion version to Davis' bill. In June, the Senate rejected a GOP amendment to an unrelated economic development bill that also sought to ease the regulatory burden on small businesses. Like [HR 527](#), it would have required the consideration of indirect regulatory costs, imposed periodic reviews of the effectiveness of existing regulations and allowed outside groups to challenge regulations in court.

The Obama administration has taken a dim view of sweeping regulatory overhauls. Cass Sunstein, the head of the White House Office of Information and Regulatory Affairs, told the Senate Homeland Security and Governmental Affairs Committee in June that he feared "unintended adverse consequences" of some of the bills, including increased litigation and increased regulatory uncertainty.

"For example, while there is an important role for judicial review of regulations, a significant expansion of judicial review in rulemaking could create unintended complexity in the regulatory system, preventing important rules from taking effect," he testified.

The Obama administration threatened Tuesday to veto both of Smith's measures. In separate statements of administration policy containing similar language, the White House said the bills would "impose unnecessary new procedures on agencies and invite frivolous litigation," which would "seriously undermine the ability of agencies to execute their statutory mandates."

The Obama administration also threatened earlier this month to veto a Senate Republican proposal ([S 1786](#)) that contained the companion version of Davis' bill, calling it a "radical departure from the longstanding separation of powers between the executive and legislative branches" that would delay "much-needed protections." That bill stalled on a procedural motion at the beginning of the month.

A version of this article appeared in the [Nov. 30, 2011 print issue of CQ Today](#)

Source: CQ Today Online News

*Round-the-clock coverage of news from Capitol*