



Written by [Thomas R. Eddlem](#) on December 29, 2010

Left Vexed Over Coming GOP Attack on Regulations

On December 26, Brian Beutler of the left-wing Talking Points Memo blog, wrote:

With 47 [Senate] members in the 112th Congress, the GOP will lack a majority, let alone a supermajority, to pass the legislation they'd need to pass to undo Obama's accomplishments and blunt his progress — as if he'd sign those bills anyway. But Republicans are all too aware of this conundrum, and have been looking for ways around it. What they found is an obscure authority provided by a 1996 law called the Congressional Review Act.



The bill allows Congress to nullify federal regulations under with a simple majority “resolution of disapproval” vote in both houses, obviating the possibility of a Senate filibuster. Thus, Talking Points Memo [noted](#) that Republicans

will be able to pass as many of these “resolutions of disapproval” as they want. The key is that a small minority in the Senate can force votes on them as well, and they require only simple-majority support to pass. If they can find four conservative Democrats to vote with them on these resolutions, they can force Obama to serially veto politically potent measures to block unpopular regulations, and create a chilling effect on the federal agencies charged with writing them.

Republican-aligned media outlets have [touted](#) the bill as a key tool in checking a runaway executive branch that is legislating under the guise of issuing “regulations.” “They're pushing through a lot of bad policy at the executive level,” Senator Jim DeMint (R-SC) [said](#). “We need to figure out how to rein it in.”

Of course, since the U.S. Constitution [begins](#) with the phrase “All legislative Powers herein granted shall be vested in a Congress,” the executive branch shouldn't be making any laws at all, regardless of the label. Enactment of “regulations” by the executive branch — whether called “regulations,” “executive orders,” “presidential decision directives” or “administrative rulings” — is a rampant and unconstitutional problem only because Congress has deliberately enacted vague laws designed to give Presidents and their minions sufficient wiggle room to make law on the margins.

Had Congress done its job and exercised its authority — and constitutional responsibility — to make all the laws, then regulations would be unnecessary. And so would the Congressional Review Act procedures being considered. But its use in the next Congress could be the beginning of Congress retaking its constitutional responsibilities to be the exclusive federal legislative body under the U.S. Constitution.



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