

**The “Sunshine for Regulatory Decrees and Settlements Act”  
(Rep. Collins - Title I of H.R. 712, the “Sunshine for Regulations and Regulatory  
Decrees and Settlements Act of 2016”)**

**Stemming the Tide of “Sue-and-Settle” Regulations**

***The Problem: Plaintiffs and Agencies Engineering New Regulatory Burdens on Job Creators***

- One of the worst regulatory abuses is the manipulation of lawsuits and judicial consent decrees or settlement agreements to “force” regulators to put out new regulations. Regulatory agencies too often welcome these suits and willingly sign up to the resulting decrees and settlements, under which they can more easily issue expensive or controversial new regulations – claiming that “The court made me do it.”
- The Obama Administration has used sue and settle litigation to impose a host of new major regulations, including EPA’s Maximum Achievable Control Technology (MACT) rules for utilities, cement plants, and oil-and-gas drilling, New Source Performance Standards for utilities, oil refiners and oil-and-gas drillers, and many other requirements.

***The Solution: the “Sunshine for Regulatory Decrees and Settlements Act”***

The “Sunshine for Regulatory Decrees and Settlements Act” solves the problem of abusive “sue-and-settle” decrees and settlements, requiring:

- ***Greater transparency.*** Agencies must publish sue-and-settle notices of intent to sue, complaints, decrees, settlements, and attorneys’ fee awards and report on them to Congress.
- ***Greater rights for regulated entities and the public.*** Agencies cannot propose sue-and-settle decrees and settlements to the courts until parties affected by the proposed regulations can intervene and participate in settlement negotiations *and* the proposed decrees and settlements are published for public notice and comment.
- ***Greater judicial scrutiny.*** Courts weighing proposed decrees and settlements must assure compliance with normal rulemaking procedures and account for agencies’ competing mandatory duties not within the litigation.
- ***Greater accountability.*** The Attorney General must certify to the court his or her approval of proposed decrees that convert discretionary authorities into mandatory duties.
- ***Greater flexibility to rein in existing consent decrees.*** Courts are allowed to review *de novo* any future motion to modify a consent decree to further reduce regulation in light of changed facts and circumstances or competing duties.