

Union Calendar No. 115

113TH CONGRESS
1ST SESSION

H. R. 367

[Report No. 113–160, Part I]

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2013

Mr. YOUNG of Indiana (for himself, Mr. AMODEI, Mr. BACHUS, Mr. BARR, Mr. BISHOP of Utah, Mrs. BLACK, Mrs. BLACKBURN, Mr. BONNER, Mr. BROOKS of Alabama, Mr. BUCSHON, Mr. CAMP, Mr. CASSIDY, Mr. CHABOT, Mr. CHAFFETZ, Mr. COLLINS of Georgia, Mr. CRAMER, Mr. CRAWFORD, Mr. RODNEY DAVIS of Illinois, Mr. DESANTIS, Mr. DESJARLAIS, Mr. DUNCAN of Tennessee, Mr. DUNCAN of South Carolina, Mr. FITZPATRICK, Mr. FORBES, Mr. FORTENBERRY, Mr. GARRETT, Mr. GERLACH, Mr. GIBBS, Mr. GINGREY of Georgia, Mr. GOSAR, Mr. GOWDY, Mr. GRAVES of Missouri, Mr. GRIFFIN of Arkansas, Mr. GUTHRIE, Mr. HANNA, Mr. HARPER, Mrs. HARTZLER, Mr. HOLDING, Mr. HUDSON, Mr. HUELSKAMP, Mr. HUIZENGA of Michigan, Mr. HULTGREN, Ms. JENKINS, Mr. JOHNSON of Ohio, Mr. JONES, Mr. KELLY, Mr. KLINE, Mr. LAMBORN, Mr. LATHAM, Mr. LATTA, Mr. LONG, Mr. LUETKEMEYER, Mrs. LUMMIS, Mr. MASSIE, Mr. MCKINLEY, Mr. MESSER, Mr. MILLER of Florida, Mrs. CAPITO, Mr. MULLIN, Mr. MULVANEY, Mr. NEUGEBAUER, Mrs. NOEM, Mr. NUGENT, Mr. NUNNELEE, Mr. OLSON, Mr. PEARCE, Mr. REED, Mr. RIBBLE, Mr. ROE of Tennessee, Mr. ROGERS of Michigan, Mr. ROKITA, Mr. SCALISE, Mr. SCHOCK, Mr. SENSENBRENNER, Mr. SIMPSON, Mr. SMITH of Texas, Mr. SMITH of Nebraska, Mr. STOCKMAN, Mr. STUTZMAN, Mr. THORNBERRY, Mr. TIBERI, Mr. WALBERG, Mr. WALDEN, Mr. WEBSTER of Florida, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. YODER, Mr. YOHO, Mr. YOUNG of Alaska, Mr. KINZINGER of Illinois, Mr. STIVERS, Mr. TIPTON, Mr. GIBSON, Mr. BOUSTANY, Mr. POE of Texas, Mr. GARDNER, Mr. SCHWEIKERT, Mr. FRANKS of Arizona, Mr. HALL, Mr. RENACCI, Mr. PALAZZO, Mr. ROSKAM, Mr. MARINO, Mr. POSEY, Mrs. ROBY, Mr. FLORES, Mr. BARTON, Mr. CALVERT, Mr. DENHAM, Mr.

BARLETTA, Mr. ALEXANDER, Mr. ADERHOLT, Mr. VALADAO, Mr. GOHMERT, Mr. COFFMAN, Mr. UPTON, Mr. SESSIONS, Mrs. WAGNER, Mr. KING of Iowa, Mrs. BROOKS of Indiana, Mr. BENISHEK, and Mr. ROSS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Rules and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 19, 2013

Additional sponsors: Mr. MCHENRY, Mr. MICA, Mr. HENSARLING, Mr. MURPHY of Pennsylvania, Ms. GRANGER, Mr. RADEL, Mr. MCCLINTOCK, Mr. MEADOWS, Mr. WENSTRUP, Mr. COTTON, Mr. CULBERSON, Mr. LAMALFA, Mr. WITTMAN, Mr. PAULSEN, Mr. GRAVES of Georgia, Mr. KINGSTON, Mr. ROTHFUS, Mr. RIGELL, Mr. DIAZ-BALART, Mrs. WALORSKI, Mr. SALMON, Mr. MCCAUL, Mr. PITTENGER, Mr. YOUNG of Florida, Mr. FARENTHOLD, Mr. LANKFORD, Mr. RYAN of Wisconsin, Mr. BRIDENSTINE, Mr. COBLE, Mr. RICE of South Carolina, Mrs. BACHMANN, Mr. WEBER of Texas, Mr. DAINES, Mr. MARCHANT, Mr. AUSTIN SCOTT of Georgia, Mr. TERRY, Ms. HERRERA BEUTLER, Mr. DUFFY, Mr. BRADY of Texas, Mr. NUNES, Mr. FLEISCHMANN, Mr. POMPEO, and Mr. SMITH of Missouri

JULY 19, 2013

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 19, 2013

The Committees on Rules and Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 23, 2013]

A BILL

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Regulations From the*
 5 *Executive in Need of Scrutiny Act of 2013”.*

6 **SEC. 2. PURPOSE.**

7 *The purpose of this Act is to increase accountability*
 8 *for and transparency in the Federal regulatory process. Sec-*
 9 *tion 1 of article I of the United States Constitution grants*
 10 *all legislative powers to Congress. Over time, Congress has*
 11 *excessively delegated its constitutional charge while failing*
 12 *to conduct appropriate oversight and retain accountability*
 13 *for the content of the laws it passes. By requiring a vote*
 14 *in Congress, the REINS Act will result in more carefully*
 15 *drafted and detailed legislation, an improved regulatory*
 16 *process, and a legislative branch that is truly accountable*
 17 *to the American people for the laws imposed upon them.*

18 **SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**

19 *Chapter 8 of title 5, United States Code, is amended*
 20 *to read as follows:*

21 **“CHAPTER 8—CONGRESSIONAL REVIEW**
 22 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. *Exemption for monetary policy.*

“807. *Effective date of certain rules.*

1 **“§ 801. Congressional review**

2 “(a)(1)(A) *Before a rule may take effect, the Federal*
3 *agency promulgating such rule shall submit to each House*
4 *of the Congress and to the Comptroller General a report*
5 *containing—*

6 “(i) *a copy of the rule;*

7 “(ii) *a concise general statement relating to the*
8 *rule;*

9 “(iii) *a classification of the rule as a major or*
10 *nonmajor rule, including an explanation of the classi-*
11 *fication specifically addressing each criteria for a*
12 *major rule contained within sections 804(2)(A),*
13 *804(2)(B), and 804(2)(C);*

14 “(iv) *a list of any other related regulatory ac-*
15 *tions intended to implement the same statutory provi-*
16 *sion or regulatory objective as well as the individual*
17 *and aggregate economic effects of those actions; and*

18 “(v) *the proposed effective date of the rule.*

19 “(B) *On the date of the submission of the report under*
20 *subparagraph (A), the Federal agency promulgating the*
21 *rule shall submit to the Comptroller General and make*
22 *available to each House of Congress—*

23 “(i) *a complete copy of the cost-benefit analysis*
24 *of the rule, if any;*

1 “(ii) the agency’s actions pursuant to sections
2 603, 604, 605, 607, and 609 of this title;

3 “(iii) the agency’s actions pursuant to sections
4 202, 203, 204, and 205 of the Unfunded Mandates
5 Reform Act of 1995; and

6 “(iv) any other relevant information or require-
7 ments under any other Act and any relevant Execu-
8 tive orders.

9 “(C) Upon receipt of a report submitted under sub-
10 paragraph (A), each House shall provide copies of the report
11 to the chairman and ranking member of each standing com-
12 mittee with jurisdiction under the rules of the House of Rep-
13 resentatives or the Senate to report a bill to amend the pro-
14 vision of law under which the rule is issued.

15 “(2)(A) The Comptroller General shall provide a re-
16 port on each major rule to the committees of jurisdiction
17 by the end of 15 calendar days after the submission or pub-
18 lication date. The report of the Comptroller General shall
19 include an assessment of the agency’s compliance with pro-
20 cedural steps required by paragraph (1)(B) and an assess-
21 ment of whether the major rule imposes any new limits or
22 mandates on private-sector activity.

23 “(B) Federal agencies shall cooperate with the Comp-
24 troller General by providing information relevant to the
25 Comptroller General’s report under subparagraph (A).

1 “(3) A major rule relating to a report submitted under
2 paragraph (1) shall take effect upon enactment of a joint
3 resolution of approval described in section 802 or as pro-
4 vided for in the rule following enactment of a joint resolu-
5 tion of approval described in section 802, whichever is later.

6 “(4) A nonmajor rule shall take effect as provided by
7 section 803 after submission to Congress under paragraph
8 (1).

9 “(5) If a joint resolution of approval relating to a
10 major rule is not enacted within the period provided in sub-
11 section (b)(2), then a joint resolution of approval relating
12 to the same rule may not be considered under this chapter
13 in the same Congress by either the House of Representatives
14 or the Senate.

15 “(b)(1) A major rule shall not take effect unless the
16 Congress enacts a joint resolution of approval described
17 under section 802.

18 “(2) If a joint resolution described in subsection (a)
19 is not enacted into law by the end of 70 session days or
20 legislative days, as applicable, beginning on the date on
21 which the report referred to in section 801(a)(1)(A) is re-
22 ceived by Congress (excluding days either House of Congress
23 is adjourned for more than 3 days during a session of Con-
24 gress), then the rule described in that resolution shall be

1 *deemed not to be approved and such rule shall not take ef-*
2 *fect.*

3 “(c)(1) *Notwithstanding any other provision of this*
4 *section (except subject to paragraph (3)), a major rule may*
5 *take effect for one 90-calendar-day period if the President*
6 *makes a determination under paragraph (2) and submits*
7 *written notice of such determination to the Congress.*

8 “(2) *Paragraph (1) applies to a determination made*
9 *by the President by Executive order that the major rule*
10 *should take effect because such rule is—*

11 “(A) *necessary because of an imminent threat to*
12 *health or safety or other emergency;*

13 “(B) *necessary for the enforcement of criminal*
14 *laws;*

15 “(C) *necessary for national security; or*

16 “(D) *issued pursuant to any statute imple-*
17 *menting an international trade agreement.*

18 “(3) *An exercise by the President of the authority*
19 *under this subsection shall have no effect on the procedures*
20 *under section 802.*

21 “(d)(1) *In addition to the opportunity for review oth-*
22 *erwise provided under this chapter, in the case of any rule*
23 *for which a report was submitted in accordance with sub-*
24 *section (a)(1)(A) during the period beginning on the date*
25 *occurring—*

1 “(A) *in the case of the Senate, 60 session days,*
2 *or*

3 “(B) *in the case of the House of Representatives,*
4 *60 legislative days,*
5 *before the date the Congress is scheduled to adjourn a session*
6 *of Congress through the date on which the same or suc-*
7 *ceeding Congress first convenes its next session, sections 802*
8 *and 803 shall apply to such rule in the succeeding session*
9 *of Congress.*

10 “(2)(A) *In applying sections 802 and 803 for purposes*
11 *of such additional review, a rule described under paragraph*
12 *(1) shall be treated as though—*

13 “(i) *such rule were published in the Federal Reg-*
14 *ister on—*

15 “(I) *in the case of the Senate, the 15th ses-*
16 *sion day, or*

17 “(II) *in the case of the House of Representa-*
18 *tives, the 15th legislative day,*

19 *after the succeeding session of Congress first convenes;*
20 *and*

21 “(ii) *a report on such rule were submitted to*
22 *Congress under subsection (a)(1) on such date.*

23 “(B) *Nothing in this paragraph shall be construed to*
24 *affect the requirement under subsection (a)(1) that a report*
25 *shall be submitted to Congress before a rule can take effect.*

1 “(B) *in the case of the Senate, within three ses-*
2 *sion days.*

3 “(3) *A joint resolution described in paragraph (1)*
4 *shall not be subject to amendment at any stage of pro-*
5 *ceeding.*

6 “(b) *A joint resolution described in subsection (a) shall*
7 *be referred in each House of Congress to the committees hav-*
8 *ing jurisdiction over the provision of law under which the*
9 *rule is issued.*

10 “(c) *In the Senate, if the committee or committees to*
11 *which a joint resolution described in subsection (a) has been*
12 *referred have not reported it at the end of 15 session days*
13 *after its introduction, such committee or committees shall*
14 *be automatically discharged from further consideration of*
15 *the resolution and it shall be placed on the calendar. A vote*
16 *on final passage of the resolution shall be taken on or before*
17 *the close of the 15th session day after the resolution is re-*
18 *ported by the committee or committees to which it was re-*
19 *ferred, or after such committee or committees have been dis-*
20 *charged from further consideration of the resolution.*

21 “(d)(1) *In the Senate, when the committee or commit-*
22 *tees to which a joint resolution is referred have reported,*
23 *or when a committee or committees are discharged (under*
24 *subsection (c)) from further consideration of a joint resolu-*
25 *tion described in subsection (a), it is at any time thereafter*

1 *in order (even though a previous motion to the same effect*
2 *has been disagreed to) for a motion to proceed to the consid-*
3 *eration of the joint resolution, and all points of order*
4 *against the joint resolution (and against consideration of*
5 *the joint resolution) are waived. The motion is not subject*
6 *to amendment, or to a motion to postpone, or to a motion*
7 *to proceed to the consideration of other business. A motion*
8 *to reconsider the vote by which the motion is agreed to or*
9 *disagreed to shall not be in order. If a motion to proceed*
10 *to the consideration of the joint resolution is agreed to, the*
11 *joint resolution shall remain the unfinished business of the*
12 *Senate until disposed of.*

13 “(2) *In the Senate, debate on the joint resolution, and*
14 *on all debatable motions and appeals in connection there-*
15 *with, shall be limited to not more than 2 hours, which shall*
16 *be divided equally between those favoring and those oppos-*
17 *ing the joint resolution. A motion to further limit debate*
18 *is in order and not debatable. An amendment to, or a mo-*
19 *tion to postpone, or a motion to proceed to the consideration*
20 *of other business, or a motion to recommit the joint resolu-*
21 *tion is not in order.*

22 “(3) *In the Senate, immediately following the conclu-*
23 *sion of the debate on a joint resolution described in sub-*
24 *section (a), and a single quorum call at the conclusion of*
25 *the debate if requested in accordance with the rules of the*

1 *Senate, the vote on final passage of the joint resolution shall*
2 *occur.*

3 “(4) *Appeals from the decisions of the Chair relating*
4 *to the application of the rules of the Senate to the procedure*
5 *relating to a joint resolution described in subsection (a)*
6 *shall be decided without debate.*

7 “(e) *In the House of Representatives, if any committee*
8 *to which a joint resolution described in subsection (a) has*
9 *been referred has not reported it to the House at the end*
10 *of 15 legislative days after its introduction, such committee*
11 *shall be discharged from further consideration of the joint*
12 *resolution, and it shall be placed on the appropriate cal-*
13 *endar. On the second and fourth Thursdays of each month*
14 *it shall be in order at any time for the Speaker to recognize*
15 *a Member who favors passage of a joint resolution that has*
16 *appeared on the calendar for at least 5 legislative days to*
17 *call up that joint resolution for immediate consideration*
18 *in the House without intervention of any point of order.*
19 *When so called up a joint resolution shall be considered as*
20 *read and shall be debatable for 1 hour equally divided and*
21 *controlled by the proponent and an opponent, and the pre-*
22 *vious question shall be considered as ordered to its passage*
23 *without intervening motion. It shall not be in order to re-*
24 *consider the vote on passage. If a vote on final passage of*
25 *the joint resolution has not been taken by the third Thurs-*

1 *day on which the Speaker may recognize a Member under*
2 *this subsection, such vote shall be taken on that day.*

3 “(f)(1) *If, before passing a joint resolution described*
4 *in subsection (a), one House receives from the other a joint*
5 *resolution having the same text, then—*

6 “(A) *the joint resolution of the other House shall*
7 *not be referred to a committee; and*

8 “(B) *the procedure in the receiving House shall*
9 *be the same as if no joint resolution had been received*
10 *from the other House until the vote on passage, when*
11 *the joint resolution received from the other House*
12 *shall supplant the joint resolution of the receiving*
13 *House.*

14 “(2) *This subsection shall not apply to the House of*
15 *Representatives if the joint resolution received from the Sen-*
16 *ate is a revenue measure.*

17 “(g) *If either House has not taken a vote on final pas-*
18 *sage of the joint resolution by the last day of the period*
19 *described in section 801(b)(2), then such vote shall be taken*
20 *on that day.*

21 “(h) *This section and section 803 are enacted by Con-*
22 *gress—*

23 “(1) *as an exercise of the rulemaking power of*
24 *the Senate and House of Representatives, respectively,*
25 *and as such is deemed to be part of the rules of each*

1 *House, respectively, but applicable only with respect*
2 *to the procedure to be followed in that House in the*
3 *case of a joint resolution described in subsection (a)*
4 *and superseding other rules only where explicitly so;*
5 *and*

6 *“(2) with full recognition of the Constitutional*
7 *right of either House to change the rules (so far as*
8 *they relate to the procedure of that House) at any*
9 *time, in the same manner and to the same extent as*
10 *in the case of any other rule of that House.*

11 **“§ 803. Congressional disapproval procedure for**
12 **nonmajor rules**

13 *“(a) For purposes of this section, the term ‘joint resolu-*
14 *tion’ means only a joint resolution introduced in the period*
15 *beginning on the date on which the report referred to in*
16 *section 801(a)(1)(A) is received by Congress and ending 60*
17 *days thereafter (excluding days either House of Congress is*
18 *adjourned for more than 3 days during a session of Con-*
19 *gress), the matter after the resolving clause of which is as*
20 *follows: ‘That Congress disapproves the nonmajor rule sub-*
21 *mitted by the _____ relating to _____, and such rule*
22 *shall have no force or effect.’ (The blank spaces being appro-*
23 *priately filled in).*

1 “(b)(1) *A joint resolution described in subsection (a)*
2 *shall be referred to the committees in each House of Con-*
3 *gress with jurisdiction.*

4 “(2) *For purposes of this section, the term submission*
5 *or publication date means the later of the date on which—*

6 “(A) *the Congress receives the report submitted*
7 *under section 801(a)(1); or*

8 “(B) *the nonmajor rule is published in the Fed-*
9 *eral Register, if so published.*

10 “(c) *In the Senate, if the committee to which is referred*
11 *a joint resolution described in subsection (a) has not re-*
12 *ported such joint resolution (or an identical joint resolu-*
13 *tion) at the end of 15 session days after the date of introduc-*
14 *tion of the joint resolution, such committee may be dis-*
15 *charged from further consideration of such joint resolution*
16 *upon a petition supported in writing by 30 Members of the*
17 *Senate, and such joint resolution shall be placed on the cal-*
18 *endar.*

19 “(d)(1) *In the Senate, when the committee to which*
20 *a joint resolution is referred has reported, or when a com-*
21 *mittee is discharged (under subsection (c)) from further con-*
22 *sideration of a joint resolution described in subsection (a),*
23 *it is at any time thereafter in order (even though a previous*
24 *motion to the same effect has been disagreed to) for a motion*
25 *to proceed to the consideration of the joint resolution, and*

1 *all points of order against the joint resolution (and against*
2 *consideration of the joint resolution) are waived. The mo-*
3 *tion is not subject to amendment, or to a motion to post-*
4 *pone, or to a motion to proceed to the consideration of other*
5 *business. A motion to reconsider the vote by which the mo-*
6 *tion is agreed to or disagreed to shall not be in order. If*
7 *a motion to proceed to the consideration of the joint resolu-*
8 *tion is agreed to, the joint resolution shall remain the unfin-*
9 *ished business of the Senate until disposed of.*

10 “(2) *In the Senate, debate on the joint resolution, and*
11 *on all debatable motions and appeals in connection there-*
12 *with, shall be limited to not more than 10 hours, which*
13 *shall be divided equally between those favoring and those*
14 *opposing the joint resolution. A motion to further limit de-*
15 *bate is in order and not debatable. An amendment to, or*
16 *a motion to postpone, or a motion to proceed to the consid-*
17 *eration of other business, or a motion to recommit the joint*
18 *resolution is not in order.*

19 “(3) *In the Senate, immediately following the conclu-*
20 *sion of the debate on a joint resolution described in sub-*
21 *section (a), and a single quorum call at the conclusion of*
22 *the debate if requested in accordance with the rules of the*
23 *Senate, the vote on final passage of the joint resolution shall*
24 *occur.*

1 “(4) Appeals from the decisions of the Chair relating
2 to the application of the rules of the Senate to the procedure
3 relating to a joint resolution described in subsection (a)
4 shall be decided without debate.

5 “(e) In the Senate the procedure specified in subsection
6 (c) or (d) shall not apply to the consideration of a joint
7 resolution respecting a nonmajor rule—

8 “(1) after the expiration of the 60 session days
9 beginning with the applicable submission or publica-
10 tion date, or

11 “(2) if the report under section 801(a)(1)(A) was
12 submitted during the period referred to in section
13 801(d)(1), after the expiration of the 60 session days
14 beginning on the 15th session day after the succeeding
15 session of Congress first convenes.

16 “(f) If, before the passage by one House of a joint reso-
17 lution of that House described in subsection (a), that House
18 receives from the other House a joint resolution described
19 in subsection (a), then the following procedures shall apply:

20 “(1) The joint resolution of the other House shall
21 not be referred to a committee.

22 “(2) With respect to a joint resolution described
23 in subsection (a) of the House receiving the joint reso-
24 lution—

1 “(A) the procedure in that House shall be
2 the same as if no joint resolution had been re-
3 ceived from the other House; but

4 “(B) the vote on final passage shall be on
5 the joint resolution of the other House.

6 **“§ 804. Definitions**

7 “For purposes of this chapter—

8 “(1) The term ‘Federal agency’ means any agen-
9 cy as that term is defined in section 551(1).

10 “(2) The term ‘major rule’ means any rule, in-
11 cluding an interim final rule, that the Administrator
12 of the Office of Information and Regulatory Affairs of
13 the Office of Management and Budget finds has re-
14 sulted in or is likely to result in—

15 “(A) an annual effect on the economy of
16 \$100,000,000 or more;

17 “(B) a major increase in costs or prices for
18 consumers, individual industries, Federal, State,
19 or local government agencies, or geographic re-
20 gions; or

21 “(C) significant adverse effects on competi-
22 tion, employment, investment, productivity, in-
23 novation, or on the ability of United States-
24 based enterprises to compete with foreign-based
25 enterprises in domestic and export markets.

1 “(3) *The term ‘nonmajor rule’ means any rule*
2 *that is not a major rule.*

3 “(4) *The term ‘rule’ has the meaning given such*
4 *term in section 551, except that such term does not*
5 *include—*

6 “(A) *any rule of particular applicability,*
7 *including a rule that approves or prescribes for*
8 *the future rates, wages, prices, services, or allow-*
9 *ances therefore, corporate or financial structures,*
10 *reorganizations, mergers, or acquisitions thereof,*
11 *or accounting practices or disclosures bearing on*
12 *any of the foregoing;*

13 “(B) *any rule relating to agency manage-*
14 *ment or personnel; or*

15 “(C) *any rule of agency organization, pro-*
16 *cedure, or practice that does not substantially af-*
17 *fect the rights or obligations of non-agency par-*
18 *ties.*

19 “(5) *The term ‘submission date or publication*
20 *date’, except as otherwise provided in this chapter,*
21 *means—*

22 “(A) *in the case of a major rule, the date*
23 *on which the Congress receives the report sub-*
24 *mitted under section 801(a)(1); and*

1 “(B) in the case of a nonmajor rule, the
2 later of—

3 “(i) the date on which the Congress re-
4 ceives the report submitted under section
5 801(a)(1); and

6 “(ii) the date on which the nonmajor
7 rule is published in the *Federal Register*, if
8 so published.

9 **“§ 805. Judicial review**

10 “(a) No determination, finding, action, or omission
11 under this chapter shall be subject to judicial review.

12 “(b) Notwithstanding subsection (a), a court may de-
13 termine whether a Federal agency has completed the nec-
14 essary requirements under this chapter for a rule to take
15 effect.

16 “(c) The enactment of a joint resolution of approval
17 under section 802 shall not be interpreted to serve as a
18 grant or modification of statutory authority by Congress
19 for the promulgation of a rule, shall not extinguish or affect
20 any claim, whether substantive or procedural, against any
21 alleged defect in a rule, and shall not form part of the record
22 before the court in any judicial proceeding concerning a
23 rule except for purposes of determining whether or not the
24 rule is in effect.

1 **“§ 806. Exemption for monetary policy**

2 *“Nothing in this chapter shall apply to rules that con-*
 3 *cern monetary policy proposed or implemented by the*
 4 *Board of Governors of the Federal Reserve System or the*
 5 *Federal Open Market Committee.*

6 **“§ 807. Effective date of certain rules**

7 *“Notwithstanding section 801—*

8 *“(1) any rule that establishes, modifies, opens,*
 9 *closes, or conducts a regulatory program for a com-*
 10 *mercial, recreational, or subsistence activity related to*
 11 *hunting, fishing, or camping; or*

12 *“(2) any rule other than a major rule which an*
 13 *agency for good cause finds (and incorporates the*
 14 *finding and a brief statement of reasons therefore in*
 15 *the rule issued) that notice and public procedure*
 16 *thereon are impracticable, unnecessary, or contrary to*
 17 *the public interest,*

18 *shall take effect at such time as the Federal agency promul-*
 19 *gating the rule determines.”.*

20 **SEC. 4. BUDGETARY EFFECTS OF RULES SUBJECT TO SEC-**
 21 **TION 802 OF TITLE 5, UNITED STATES CODE.**

22 *Section 257(b)(2) of the Balanced Budget and Emer-*
 23 *gency Deficit Control Act of 1985 is amended by adding*
 24 *at the end the following new subparagraph:*

25 **“(E) BUDGETARY EFFECTS OF RULES SUB-**
 26 **JECT TO SECTION 802 OF TITLE 5, UNITED**

1 *STATES CODE.—Any rules subject to the congres-*
2 *sional approval procedure set forth in section*
3 *802 of chapter 8 of title 5, United States Code,*
4 *affecting budget authority, outlays, or receipts*
5 *shall be assumed to be effective unless it is not*
6 *approved in accordance with such section.”.*

7 **SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF**
8 **RULES.**

9 *(a) IN GENERAL.—The Comptroller General of the*
10 *United States shall conduct a study to determine, as of the*
11 *date of the enactment of this Act—*

12 *(1) how many rules (as such term is defined in*
13 *section 804 of title 5, United States Code) were in ef-*
14 *fect;*

15 *(2) how many major rules (as such term is de-*
16 *finied in section 804 of title 5, United States Code)*
17 *were in effect; and*

18 *(3) the total estimated economic cost imposed by*
19 *all such rules.*

20 *(b) REPORT.—Not later than one year after the date*
21 *of the enactment of this Act, the Comptroller General of the*
22 *United States shall submit a report to Congress that con-*
23 *tains the findings of the study conducted under subsection*
24 *(a).*

Union Calendar No. 115

113TH CONGRESS
1ST Session

H. R. 367

[Report No. 113-160, Part I]

A BILL

To amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

JULY 19, 2013

Reported from the Committee on the Judiciary with an amendment

JULY 19, 2013

The Committees on Rules and Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed