

112TH CONGRESS
1ST SESSION

H. R. 10

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 20, 2011

Mr. DAVIS of Kentucky (for himself, Mr. SMITH of Texas, Mr. AKIN, Mr. BACHUS, Mr. BARTLETT, Mr. BARTON of Texas, Mr. BERG, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BONNER, Mr. BOUSTANY, Mr. BRADY of Texas, Mr. BUCSHON, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CAMP, Mr. CHAFFETZ, Mr. COBLE, Mr. CRAWFORD, Mr. FARENTHOLD, Mr. FLORES, Mr. FORTENBERRY, Ms. FOXX, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. GARDNER, Mr. GARRETT, Mr. GERLACH, Mr. GIBBS, Mr. GIBSON, Mr. GOHMERT, Mr. GOWDY, Mr. GUTHRIE, Ms. HAYWORTH, Mr. HELLER, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Ms. JENKINS, Mr. JONES, Mr. KING of Iowa, Mr. KINGSTON, Mr. KINZINGER of Illinois, Mr. KLINE, Mr. LAMBORN, Mr. LATTA, Mr. LEE of New York, Mrs. LUMMIS, Mr. MANZULLO, Mr. MCCARTHY of California, Mr. MCCLINTOCK, Mr. MCHENRY, Mr. MCKEON, Mr. MCKINLEY, Mrs. MCMORRIS RODGERS, Mr. MILLER of Florida, Mr. MULVANEY, Mr. MURPHY of Pennsylvania, Mr. NEUGEBAUER, Mr. NUNES, Mr. NUNNELEE, Mr. PAUL, Mr. PEARCE, Mr. POMPEO, Mr. POSEY, Mr. PRICE of Georgia, Mr. QUAYLE, Mr. REICHERT, Mr. ROE of Tennessee, Mr. ROGERS of Kentucky, Mr. ROKITA, Mr. ROSKAM, Mrs. SCHMIDT, Mr. SCHOCK, Mr. AUSTIN SCOTT of Georgia, Mr. SCOTT of South Carolina, Mr. SESSIONS, Mr. SIMPSON, Mr. SMITH of Nebraska, Mr. STUTZMAN, Mr. TERRY, Mr. TIPTON, Mr. UPTON, Mr. WALDEN, Mr. WEST, Mr. WILSON of South Carolina, and Mr. WITTMAN) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Rules, 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

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 2011”.

6 **SEC. 2. PURPOSE.**

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

1 **SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULE-**
 2 **MAKING.**

3 Chapter 8 of title 5, United States Code, is amended
 4 to read as follows:

5 **“CHAPTER 8—CONGRESSIONAL REVIEW**
 6 **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.

7 **“§ 801. Congressional review**

8 “(a)(1)(A) Before a rule may take effect, the Federal
 9 agency promulgating such rule shall submit to each House
 10 of the Congress and to the Comptroller General a report
 11 containing—

12 “(i) a copy of the rule;

13 “(ii) a concise general statement relating to the
 14 rule;

15 “(iii) a classification of the rule as a major or
 16 nonmajor rule, including an explanation of the clas-
 17 sification specifically addressing each criteria for a
 18 major rule contained within sections 804(2)(A),
 19 804(2)(B), and 804(2)(C);

20 “(iv) a list of any other related regulatory ac-
 21 tions intended to implement the same statutory pro-

1 vision or regulatory objective as well as the indi-
2 vidual and aggregate economic effects of those ac-
3 tions; and

4 “(v) the proposed effective date of the rule.

5 “(B) On the date of the submission of the report
6 under subparagraph (A), the Federal agency promulgating
7 the rule shall submit to the Comptroller General and make
8 available to each House of Congress—

9 “(i) a complete copy of the cost-benefit analysis
10 of the rule, if any;

11 “(ii) the agency’s actions pursuant to title 5 of
12 the United States Code, sections 603, 604, 605,
13 607, and 609;

14 “(iii) the agency’s actions pursuant to title 2 of
15 the United States Code, sections 1532, 1533, 1534,
16 and 1535; and

17 “(iv) any other relevant information or require-
18 ments under any other Act and any relevant Execu-
19 tive orders.

20 “(C) Upon receipt of a report submitted under sub-
21 paragraph (A), each House shall provide copies of the re-
22 port to the chairman and ranking member of each stand-
23 ing committee with jurisdiction under the rules of the
24 House of Representatives or the Senate to report a bill

1 to amend the provision of law under which the rule is
2 issued.

3 “(2)(A) The Comptroller General shall provide a re-
4 port on each major rule to the committees of jurisdiction
5 by the end of 15 calendar days after the submission or
6 publication date as provided in section 802(b)(2). The re-
7 port of the Comptroller General shall include an assess-
8 ment of the agency’s compliance with procedural steps re-
9 quired by paragraph (1)(B).

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

13 “(3) A major rule relating to a report submitted
14 under paragraph (1) shall take effect upon enactment of
15 a joint resolution of approval described in section 802 or
16 as provided for in the rule following enactment of a joint
17 resolution of approval described in section 802, whichever
18 is later.

19 “(4) A nonmajor rule shall take effect as provided
20 by section 803 after submission to Congress under para-
21 graph (1).

22 “(5) If a joint resolution of approval relating to a
23 major rule is not enacted within the period provided in
24 subsection (b)(2), then a joint resolution of approval relat-
25 ing to the same rule may not be considered under this

1 chapter in the same Congress by either the House of Rep-
2 resentatives or the Senate.

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

6 “(2) If a joint resolution described in subsection (a)
7 is not enacted into law by the end of 70 session days or
8 legislative days, as applicable, beginning on the date on
9 which the report referred to in section 801(a)(1)(A) is re-
10 ceived by Congress (excluding days either House of Con-
11 gress is adjourned for more than 3 days during a session
12 of Congress), then the rule described in that resolution
13 shall be deemed not to be approved and such rule shall
14 not take effect.

15 “(c)(1) Notwithstanding any other provision of this
16 section (except subject to paragraph (3)), a major rule
17 may take effect for one 90-calendar-day period if the
18 President makes a determination under paragraph (2) and
19 submits written notice of such determination to the Con-
20 gress.

21 “(2) Paragraph (1) applies to a determination made
22 by the President by Executive order that the major rule
23 should take effect because such rule is—

24 “(A) necessary because of an imminent threat
25 to health or safety or other emergency;

1 “(B) necessary for the enforcement of criminal
2 laws;

3 “(C) necessary for national security; or

4 “(D) issued pursuant to any statute imple-
5 menting an international trade agreement.

6 “(3) An exercise by the President of the authority
7 under this subsection shall have no effect on the proce-
8 dures under section 802.

9 “(d)(1) In addition to the opportunity for review oth-
10 erwise provided under this chapter, in the case of any rule
11 for which a report was submitted in accordance with sub-
12 section (a)(1)(A) during the period beginning on the date
13 occurring—

14 “(A) in the case of the Senate, 60 session days,
15 or

16 “(B) in the case of the House of Representa-
17 tives, 60 legislative days,

18 before the date the Congress is scheduled to adjourn a
19 session of Congress through the date on which the same
20 or succeeding Congress first convenes its next session, sec-
21 tions 802 and 803 shall apply to such rule in the suc-
22 ceeding session of Congress.

23 “(2)(A) In applying sections 802 and 803 for pur-
24 poses of such additional review, a rule described under
25 paragraph (1) shall be treated as though—

1 “(i) such rule were published in the Federal
2 Register on—

3 “(I) in the case of the Senate, the 15th
4 session day, or

5 “(II) in the case of the House of Rep-
6 resentatives, the 15th legislative day,
7 after the succeeding session of Congress first con-
8 venes; and

9 “(ii) a report on such rule were submitted to
10 Congress under subsection (a)(1) on such date.

11 “(B) Nothing in this paragraph shall be construed
12 to affect the requirement under subsection (a)(1) that a
13 report shall be submitted to Congress before a rule can
14 take effect.

15 “(3) A rule described under paragraph (1) shall take
16 effect as otherwise provided by law (including other sub-
17 sections of this section).

18 **“§ 802. Congressional approval procedure for major**
19 **rules**

20 “(a) For purposes of this section, the term ‘joint res-
21 olution’ means only a joint resolution introduced on or
22 after the date on which the report referred to in section
23 801(a)(1)(A) is received by Congress (excluding days ei-
24 ther House of Congress is adjourned for more than 3 days
25 during a session of Congress), the matter after the resolv-

1 ing clause of which is as follows: ‘That Congress approves
2 the rule submitted by the ___ ___ relating to ___ ___.’ (The
3 blank spaces being appropriately filled in).

4 “(1) In the House, the majority leader of the
5 House of Representatives (or his designee) and the
6 minority leader of the House of Representatives (or
7 his designee) shall introduce such joint resolution
8 described in subsection (a) (by request), within 3
9 legislative days after Congress receives the report re-
10 ferred to in section 801(a)(1)(A).

11 “(2) In the Senate, the majority leader of the
12 Senate (or his designee) and the minority leader of
13 the Senate (or his designee) shall introduce such
14 joint resolution described in subsection (a) (by re-
15 quest), within 3 session days after Congress receives
16 the report referred to in section 801(a)(1)(A).

17 “(b)(1) A joint resolution described in subsection (a)
18 shall be referred to the committees in each House of Con-
19 gress with jurisdiction under the rules of the House of
20 Representatives or the Senate to report a bill to amend
21 the provision of law under which the rule is issued.

22 “(2) For purposes of this section, the term ‘submis-
23 sion date’ means the date on which the Congress receives
24 the report submitted under section 801(a)(1).

1 “(c) In the Senate, if the committee or committees
2 to which a joint resolution described in subsection (a) has
3 been referred have not reported it at the end of 15 session
4 days after its introduction, such committee or committees
5 shall be automatically discharged from further consider-
6 ation of the resolution and it shall be placed on the cal-
7 endar. A vote on final passage of the resolution shall be
8 taken on or before the close of the 15th session day after
9 the resolution is reported by the committee or committees
10 to which it was referred, or after such committee or com-
11 mittees have been discharged from further consideration
12 of the resolution.

13 “(d)(1) In the Senate, when the committee or com-
14 mittees to which a joint resolution is referred have re-
15 ported, or when a committee or committees are discharged
16 (under subsection (c)) from further consideration of a
17 joint resolution described in subsection (a), it is at any
18 time thereafter in order (even though a previous motion
19 to the same effect has been disagreed to) for a motion
20 to proceed to the consideration of the joint resolution, and
21 all points of order against the joint resolution (and against
22 consideration of the joint resolution) are waived. The mo-
23 tion is not subject to amendment, or to a motion to post-
24 pone, or to a motion to proceed to the consideration of
25 other business. A motion to reconsider the vote by which

1 the motion is agreed to or disagreed to shall not be in
2 order. If a motion to proceed to the consideration of the
3 joint resolution is agreed to, the joint resolution shall re-
4 main the unfinished business of the Senate until disposed
5 of.

6 “(2) In the Senate, debate on the joint resolution,
7 and on all debatable motions and appeals in connection
8 therewith, shall be limited to not more than 2 hours, which
9 shall be divided equally between those favoring and those
10 opposing the joint resolution. A motion to further limit
11 debate is in order and not debatable. An amendment to,
12 or a motion to postpone, or a motion to proceed to the
13 consideration of other business, or a motion to recommit
14 the joint resolution is not in order.

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

21 “(4) Appeals from the decisions of the Chair relating
22 to the application of the rules of the Senate to the proce-
23 dure relating to a joint resolution described in subsection
24 (a) shall be decided without debate.

1 “(e)(1) In the House of Representatives, if the com-
2 mittee or committees to which a joint resolution described
3 in subsection (a) has been referred have not reported it
4 at the end of 15 legislative days after its introduction,
5 such committee or committees shall be automatically dis-
6 charged from further consideration of the resolution and
7 it shall be placed on the appropriate calendar. A vote on
8 final passage of the resolution shall be taken on or before
9 the close of the 15th legislative day after the resolution
10 is reported by the committee or committees to which it
11 was referred, or after such committee or committees have
12 been discharged from further consideration of the resolu-
13 tion.

14 “(2)(A) A motion in the House of Representatives to
15 proceed to the consideration of a resolution shall be privi-
16 leged and not debatable. An amendment to the motion
17 shall not be in order, nor shall it be in order to move to
18 reconsider the vote by which the motion is agreed to or
19 disagreed to.

20 “(B) Debate in the House of Representatives on a
21 resolution shall be limited to not more than two hours,
22 which shall be divided equally between those favoring and
23 those opposing the resolution. A motion to further limit
24 debate shall not be debatable. No amendment to, or mo-
25 tion to recommit, the resolution shall be in order. It shall

1 not be in order to reconsider the vote by which a resolution
2 is agreed to or disagreed to.

3 “(C) Motions to postpone, made in the House of Rep-
4 resentatives with respect to the consideration of a resolu-
5 tion, and motions to proceed to the consideration of other
6 business, shall be decided without debate.

7 “(D) All appeals from the decisions of the Chair re-
8 lating to the application of the Rules of the House of Rep-
9 resentatives to the procedure relating to a resolution shall
10 be decided without debate.

11 “(f) If, before the passage by one House of a joint
12 resolution of that House described in subsection (a), that
13 House receives from the other House a joint resolution
14 described in subsection (a), then the following procedures
15 shall apply with respect to a joint resolution described in
16 subsection (a) of the House receiving the joint resolu-
17 tion—

18 “(1) the procedure in that House shall be the
19 same as if no joint resolution had been received from
20 the other House; but

21 “(2) the vote on final passage shall be on the
22 joint resolution of the other House.

23 “(g) The enactment of a resolution of approval does
24 not serve as a grant or modification of statutory authority
25 by Congress for the promulgation of a rule, does not extin-

1 guish or affect any claim, whether substantive or proce-
2 dural, against any alleged defect in a rule, and shall not
3 form part of the record before the court in any judicial
4 proceeding concerning a rule.

5 “(h) This section and section 803 are enacted by
6 Congress—

7 “(1) as an exercise of the rulemaking power of
8 the Senate and House of Representatives, respec-
9 tively, and as such it is deemed a part of the rules
10 of each House, respectively, but applicable only with
11 respect to the procedure to be followed in that
12 House in the case of a joint resolution described in
13 subsection (a), and it supersedes other rules only to
14 the extent that it is inconsistent with such rules; and

15 “(2) with full recognition of the constitutional
16 right of either House to change the rules (so far as
17 relating to the procedure of that House) at any time,
18 in the same manner, and to the same extent as in
19 the case of any other rule of that House.

20 **“§ 803. Congressional disapproval procedure for**
21 **nonmajor rules**

22 “(a) For purposes of this section, the term ‘joint res-
23 olution’ means only a joint resolution introduced in the
24 period beginning on the date on which the report referred
25 to in section 801(a)(1)(A) is received by Congress and

1 ending 60 days thereafter (excluding days either House
2 of Congress is adjourned for more than 3 days during a
3 session of Congress), the matter after the resolving clause
4 of which is as follows: ‘That Congress disapproves the
5 nonmajor rule submitted by the ___ ___ relating to ___ ___,
6 and such rule shall have no force or effect.’ (The blank
7 spaces being appropriately filled in).

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

11 “(2) For purposes of this section, the term submis-
12 sion or publication date means the later of the date on
13 which—

14 “(A) the Congress receives the report submitted
15 under section 801(a)(1); or

16 “(B) the nonmajor rule is published in the Fed-
17 eral Register, if so published.

18 “(c) In the Senate, if the committee to which is re-
19 ferred a joint resolution described in subsection (a) has
20 not reported such joint resolution (or an identical joint
21 resolution) at the end of 15 session days after the date
22 of introduction of the joint resolution, such committee may
23 be discharged from further consideration of such joint res-
24 olution upon a petition supported in writing by 30 Mem-

1 bers of the Senate, and such joint resolution shall be
2 placed on the calendar.

3 “(d)(1) In the Senate, when the committee to which
4 a joint resolution is referred has reported, or when a com-
5 mittee is discharged (under subsection (c)) from further
6 consideration of a joint resolution described in subsection
7 (a), it is at any time thereafter in order (even though a
8 previous motion to the same effect has been disagreed to)
9 for a motion to proceed to the consideration of the joint
10 resolution, and all points of order against the joint resolu-
11 tion (and against consideration of the joint resolution) are
12 waived. The motion is not subject to amendment, or to
13 a motion to postpone, or to a motion to proceed to the
14 consideration of other business. A motion to reconsider the
15 vote by which the motion is agreed to or disagreed to shall
16 not be in order. If a motion to proceed to the consideration
17 of the joint resolution is agreed to, the joint resolution
18 shall remain the unfinished business of the Senate until
19 disposed of.

20 “(2) In the Senate, debate on the joint resolution,
21 and on all debatable motions and appeals in connection
22 therewith, shall be limited to not more than 10 hours,
23 which shall be divided equally between those favoring and
24 those opposing the joint resolution. A motion to further
25 limit debate is in order and not debatable. An amendment

1 to, or a motion to postpone, or a motion to proceed to
2 the consideration of other business, or a motion to recom-
3 mit the joint resolution is not in order.

4 “(3) In the Senate, immediately following the conclu-
5 sion of the debate on a joint resolution described in sub-
6 section (a), and a single quorum call at the conclusion of
7 the debate if requested in accordance with the rules of the
8 Senate, the vote on final passage of the joint resolution
9 shall occur.

10 “(4) Appeals from the decisions of the Chair relating
11 to the application of the rules of the Senate to the proce-
12 dure relating to a joint resolution described in subsection
13 (a) shall be decided without debate.

14 “(e) In the Senate the procedure specified in sub-
15 section (c) or (d) shall not apply to the consideration of
16 a joint resolution respecting a nonmajor rule—

17 “(1) after the expiration of the 60 session days
18 beginning with the applicable submission or publica-
19 tion date, or

20 “(2) if the report under section 801(a)(1)(A)
21 was submitted during the period referred to in sec-
22 tion 801(d)(1), after the expiration of the 60 session
23 days beginning on the 15th session day after the
24 succeeding session of Congress first convenes.

1 “(f) If, before the passage by one House of a joint
2 resolution of that House described in subsection (a), that
3 House receives from the other House a joint resolution
4 described in subsection (a), then the following procedures
5 shall apply:

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

8 “(2) With respect to a joint resolution described
9 in subsection (a) of the House receiving the joint
10 resolution—

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

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

16 **“§ 804. Definitions**

17 “For purposes of this chapter—

18 “(1) The term ‘Federal agency’ means any
19 agency as that term is defined in section 551(1).

20 “(2) The term ‘major rule’ means any rule, in-
21 cluding an interim final rule, that the Administrator
22 of the Office of Information and Regulatory Affairs
23 of the Office of Management and Budget finds has
24 resulted in or is likely to result in—

1 “(A) an annual effect on the economy of
2 \$100,000,000 or more;

3 “(B) a major increase in costs or prices for
4 consumers, individual industries, Federal,
5 State, or local government agencies, or geo-
6 graphic regions; or

7 “(C) significant adverse effects on competi-
8 tion, employment, investment, productivity, in-
9 novation, or on the ability of United States-
10 based enterprises to compete with foreign-based
11 enterprises in domestic and export markets.

12 “(3) The term ‘nonmajor rule’ means any rule
13 that is not a major rule.

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

17 “(A) any rule of particular applicability,
18 including a rule that approves or prescribes for
19 the future rates, wages, prices, services, or al-
20 lowances therefore, corporate or financial struc-
21 tures, reorganizations, mergers, or acquisitions
22 thereof, or accounting practices or disclosures
23 bearing on any of the foregoing;

24 “(B) any rule relating to agency manage-
25 ment or personnel; or

1 “(C) any rule of agency organization, pro-
2 cedure, or practice that does not substantially
3 affect the rights or obligations of non-agency
4 parties.

5 **“§ 805. Judicial review**

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

8 “(b) Notwithstanding subsection (a), a court may de-
9 termine whether a Federal agency has completed the nec-
10 essary requirements under this chapter for a rule to take
11 effect.

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

13 “Nothing in this chapter shall apply to rules that con-
14 cern monetary policy proposed or implemented by the
15 Board of Governors of the Federal Reserve System or the
16 Federal Open Market Committee.

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

18 “Notwithstanding section 801—

19 “(1) any rule that establishes, modifies, opens,
20 closes, or conducts a regulatory program for a com-
21 mercial, recreational, or subsistence activity related
22 to hunting, fishing, or camping; or

23 “(2) any rule other than a major rule which an
24 agency for good cause finds (and incorporates the
25 finding and a brief statement of reasons therefore in

1 the rule issued) that notice and public procedure
2 thereon are impracticable, unnecessary, or contrary
3 to the public interest,
4 shall take effect at such time as the Federal agency pro-
5 mulgating the rule determines.”.

○