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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Regulations From the
Executive in Need of Scrutiny Act of 2009”.

SEC. 2. FINDINGS.

Congress finds that—

(1) section 1 of article I of the Constitution
grants all legislative powers to Congress;

(2) section 8 of article I of the Constitution
provides that Congress has the power “to make all
laws which shall be necessary and proper for car-
rying into execution the foregoing powers”;

(3) Congress regularly delegates its constitu-
tional powers to the executive branch and its agen-
cies for the purpose of drafting rules;

(4) many of the rules created by the executive
branch and its agencies are not drafted or do not
come into effect until years after the Act of Con-
gress authorizing their creation;

(5) such rules can have substantial compliance
or other financial costs on American families, busi-
nesses, and local governments;
(6) the drafters of Federal rules are not accountable directly to the people of the United States through regular elections;

(7) during calendar year 2008, the Government Accountability Office received a total of 3,006 final rules, including 94 major rules;

(8) the current executive rule review process provided for in the provision of law commonly known as the Congressional Review Act has only been exercised by Congress once since its enactment in 1996 to reject a rule;

(9) delegation of congressional powers to the executive branch and its agencies augments the power of the executive branch and fails to require that sitting members of Congress are accountable for finalized rules; and

(10) Congress must exercise greater accountability for its delegation of constitutional authority and the impact that such delegation has on the people, businesses, and State and local governments of the United States.

SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.

Chapter 8 of title 5, United States Code, is amended to read as follows:
CHAPTER 8—CONGRESSIONAL REVIEW
OF AGENCY RULEMAKING

Sec.
801. Congressional review.
802. Congressional approval procedure for major rules.
803. Congressional disapproval procedure for nonmajor rules.
804. Definitions.
806. Exemption for monetary policy.
807. Effective date of certain rules.

§ 801. Congressional review

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

(i) a copy of the rule;
(ii) a concise general statement relating to the rule, including whether it is a major rule; and
(iii) the proposed effective date of the rule.

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

(i) a complete copy of the cost-benefit analysis of the rule, if any;
(ii) the agency’s actions relevant to sections 603, 604, 605, 607, and 609;
“(iii) the agency’s actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

“(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

“(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

“(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency’s compliance with procedural steps required by paragraph (1)(B).

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

“(3) A major rule relating to a report submitted under paragraph (1) shall take effect immediately or as
provided for in the rule, whichever is later, if a joint reso-

ution of approval described in section 802 becomes law.

“(4) A nonmajor major rule shall take effect as pro-

vided by section 803 after submission to Congress under

paragraph (1).

“(5) If a joint resolution of approval relating to a

major rule is not enacted within the period provided in

subsection (b)(2), then a joint resolution of approval relating
to the same or a substantially similar rule may be con-

cidered under this chapter in the same Congress by either

the House of Representatives or the Senate.

“(b)(1) A major rule shall not take effect unless the

Congress enacts a joint resolution of approval described

under section 802.

“(2) If a joint resolution described in subsection (a)
is not enacted into law by the end of 90 session days or

legislative days, as applicable, beginning after the date

such resolution is introduced, then the rule described in

that resolution shall be deemed not to be approved and

such rule shall not take effect.

“(c)(1) Notwithstanding any other provision of this

section (except subject to paragraph (3)), a major rule

may take effect for one 90-calendar-day period if the

President makes a determination under paragraph (2) and
submits written notice of such determination to the Congress.

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

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

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

“(C) necessary for national security; or

“(D) issued pursuant to any statute implementing an international trade agreement.

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

“(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule other than a major rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

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

“(B) in the case of the House of Representatives, 60 legislative days,
before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 803 shall apply to such rule in the succeeding session of Congress.

“(2)(A) In applying 803 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

“(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

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

“(II) in the case of the House of Representatives, the 15th legislative day, after the succeeding session of Congress first convenes; and

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

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

“(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).
§ 802. Congressional approval procedure for major rules

“(a) For purposes of this section, the term ‘joint resolution’ means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ‘That Congress approves the rule submitted by the ___ ___ relating to ___ ___.’ (The blank spaces being appropriately filled in).

“(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

“(2) For purposes of this section, the term ‘submission date’ means the date on which the Congress receives the report submitted under section 801(a)(1).

“(e) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after the date of introduction of the joint resolution, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.
“(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

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

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

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

“(e)(1) In the House of Representatives, if the com-
mittee or committees to which a joint resolution described
in subsection (a) has been referred have not reported it
at the end of 15 legislative days after its introduction,
such committee shall be automatically discharged from
further consideration of the resolution and it shall be
placed on the appropriate calendar. A vote on final pas-
sage of the resolution shall be taken on or before the close
of the 15th legislative day after the resolution is reported
by the committee to which it was referred, or after such
committee has been discharged from further consideration
of the resolution.
“(2)(A) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the House of Representatives on a resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to reconsider the vote by which a resolution is agreed to or disagreed to.

“(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

“(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

“(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be gov-
erned by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

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

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

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

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

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

“(g) The enactment of a resolution of approval does not serve as a grant of statutory authority by Congress for a rule and does not cure any procedural defect in the making of a rule.

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

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

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

“§ 803. Congressional disapproval procedure for nonmajor rules

“(a) For purposes of this section, the term ‘joint resolution’ means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ‘That Congress disapproves the nonmajor rule submitted by the ___ ___ relating to ___ ___, and such rule shall have no force or effect.’ (The blank spaces being appropriately filled in).
“(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

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

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

“(B) the nonmajor rule is published in the Federal Register, if so published.

“(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after the date of introduction of the joint resolution, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

“(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to)
for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

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

“(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the
Senate, the vote on final passage of the joint resolution shall occur.

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

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

“(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

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

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

“(1) The joint resolution of the other House shall not be referred to a committee.
“(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

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

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

“§ 804. Definitions

“For purposes of this chapter—

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

“(2) The term ‘major rule’ means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

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

“(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

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

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

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

“(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefore, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

“(B) any rule relating to agency management or personnel; or

“(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

§ 805. Judicial review

“No determination, finding, action, or omission under this chapter shall be subject to judicial review.
§ 806. Exemption for monetary policy

“Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

§ 807. Effective date of certain rules

“Notwithstanding section 801—

“(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or

“(2) any rule other than a major rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines.”.