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. Farenthhold, 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.

Be it enacted by the Senate and House of Representatives 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 2011”.

SEC. 2. PURPOSE.

The purpose of this Act is to increase accountability for and transparency in the federal regulatory process.

Section 1 of article I of the United States Constitution grants all legislative powers to Congress. Over time, Congress has excessively delegated its constitutional charge while failing to conduct appropriate oversight and retain accountability for the content of the laws it passes. By requiring a vote in Congress, the REINS Act will result in more carefully drafted and detailed legislation, an improved regulatory process, and a legislative branch that is truly accountable to the American people for the laws imposed upon them.
SEC. 3. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

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

“CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

§ 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;

(iii) a classification of the rule as a major or nonmajor rule, including an explanation of the classification specifically addressing each criteria for a major rule contained within sections 804(2)(A), 804(2)(B), and 804(2)(C);

(iv) a list of any other related regulatory actions intended to implement the same statutory pro-
vision or regulatory objective as well as the individual and aggregate economic effects of those actions; and

“(v) 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 pursuant to title 5 of the United States Code, sections 603, 604, 605, 607, and 609;

“(iii) the agency’s actions pursuant to title 2 of the United States Code, sections 1532, 1533, 1534, and 1535; 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 re-
port on each major rule to the committees of jurisdiction
by the end of 15 calendar days after the submission or
publication date as provided in section 802(b)(2). The re-
port of the Comptroller General shall include an assess-
ment of the agency’s compliance with procedural steps re-
quired by paragraph (1)(B).

“(B) Federal agencies shall cooperate with the Com-
troller 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 upon enactment of
a joint resolution of approval described in section 802 or
as provided for in the rule following enactment of a joint
resolution of approval described in section 802, whichever
is later.

“(4) A nonmajor rule shall take effect as provided
by section 803 after submission to Congress under para-
graph (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 rule may not be considered under this
chapter in the same Congress by either the House of Rep-
resentatives 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 70 session days or
legislative days, as applicable, beginning on the date on
which the report referred to in section 801(a)(1)(A) is re-
ceived by Congress (excluding days either House of Con-
gress is adjourned for more than 3 days during a session
of Congress), 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 Con-
gress.

“(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 implement-
ing an international trade agreement.
“(3) An exercise by the President of the authority
under this subsection shall have no effect on the proce-
dures under section 802.
“(d)(1) In addition to the opportunity for review oth-
ewise provided under this chapter, in the case of any rule
for which a report was submitted in accordance with sub-
section (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 Representa-
tives, 60 legislative days,
before the date the Congress is scheduled to adjourn a
session of Congress through the date on which the same
or succeeding Congress first convenes its next session, sec-
tions 802 and 803 shall apply to such rule in the suc-
ceeding session of Congress.
“(2)(A) In applying sections 802 and 803 for pur-
poses of such additional review, a rule described under
paragraph (1) shall be treated as though—
“(i) such rule were published in the Federal Register 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 on or after 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 resolv-
ing clause of which is as follows: ‘That Congress approves
the rule submitted by the ___ ___ relating to ___ ___.’ (The
blank spaces being appropriately filled in).

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

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

“(b)(1) A joint resolution described in subsection (a)
shall be referred to the committees in each House of Con-
gress 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) For purposes of this section, the term ‘submis-
sion date’ means the date on which the Congress receives
the report submitted under section 801(a)(1).
“(c) In the Senate, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 session days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th session day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

“(d)(1) In the Senate, when the committee or committees to which a joint resolution is referred have reported, or when a committee or committees are 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 re-
main 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 2 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 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 committee 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 or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th legislative day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have 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 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 Rep-
resentatives with respect to the consideration of a resolu-
tion, and motions to proceed to the consideration of other
business, shall be decided without debate.

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

“(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 with respect to a joint resolution described in
subsection (a) of the House receiving the joint resolu-
tion—

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

“(2) 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 or modification of statutory authority
by Congress for the promulgation of a rule, does not extin-
guish or affect any claim, whether substantive or procedural, against any alleged defect in a rule, and shall not form part of the record before the court in any judicial proceeding concerning 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, respectively, 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 Mem-
bers 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) In the Senate the procedure specified in sub-
section (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 publica-
tion date, or

“(2) if the report under section 801(a)(1)(A)
was submitted during the period referred to in sec-
tion 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, including an interim final 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 geo-
graphic regions; or

“(C) significant adverse effects on competi-
tion, 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 al-
lowances therefore, corporate or financial struc-
tures, reorganizations, mergers, or acquisitions
to thereof, or accounting practices or disclosures
bearing on any of the foregoing;

“(B) any rule relating to agency manage-
ment 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

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

“(b) Notwithstanding subsection (a), a court may determine whether a Federal agency has completed the necessary requirements under this chapter for a rule to take effect.

§ 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

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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.”.