

105TH CONGRESS
2D SESSION

H. R. 4085

To require congressional approval of proposed rules designated by the
Congress to be significant.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 1998

Mr. SMITH of Michigan (for himself, Mr. PETERSON of Pennsylvania, and Mr. ISTOOK) 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 require congressional approval of proposed rules
designated by the Congress to be significant.

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 “Significant Regulation
5 Oversight Act of 1998”.

6 **SEC. 2. FINDING AND PURPOSE.**

7 (a) FINDING.—The Congress finds that oversight of
8 significant rules will be enhanced if they are subject to

1 congressional review and approval after being proposed by
2 an agency.

3 (b) PURPOSE.—The purpose of this Act is to ensure
4 that before a significant rule takes effect—

5 (1) Congress is given an adequate opportunity
6 to review the rule and ensure that it is in accordance
7 with the intent of Congress in enacting the law
8 under which the rule is proposed; and

9 (2) Congress approves the rule in accordance
10 with the procedures established by this Act.

11 **SEC. 3. REVIEW OF SIGNIFICANT RULES BY CONGRESS.**

12 (a) CONGRESSIONAL APPROVAL OF SIGNIFICANT
13 RULES REQUIRED.—A significant rule shall not take ef-
14 fect before the date of the enactment of a joint resolution
15 described in section 4(a) comprised solely of the text of
16 the significant rule.

17 (b) REPORTING AND REVIEW OF SIGNIFICANT
18 RULES.—(1) Before a proposed significant rule would
19 take effect as a final rule, the agency proposing the rule
20 shall submit to each House of Congress a report contain-
21 ing the following:

22 (A) A copy of the proposed significant rule.

23 (B) A concise summary of the proposed signifi-
24 cant rule, its purpose, and anticipated effects.

1 (C) A complete copy of any cost-benefit analysis
2 report that has been prepared by the agency with re-
3 spect to the proposed significant rule.

4 (D) An explanation of the specific statutory in-
5 terpretation under which a rule is proposed, includ-
6 ing an explanation of—

7 (i) whether the interpretation is expressly
8 required by the text of the statute; or

9 (ii) if the interpretation is not expressly re-
10 quired by the text of the statute, an explanation
11 that the interpretation is within the range of
12 permissible interpretations of the statute as
13 identified by the agency, and an explanation
14 why the interpretation selected by the agency is
15 the agency's preferred interpretation.

16 (E) Any other relevant information or require-
17 ments under any other Act and any relevant Execu-
18 tive order.

19 (2) Upon receipt of a report under paragraph (1),
20 each House of Congress shall provide a copy of the report
21 to the Chairman and ranking minority party member of
22 each committee with jurisdiction over the subject matter
23 of the report.

24 (c) NO INFERENCE TO BE DRAWN WHERE CON-
25 GRESS FAILS TO APPROVE.—If Congress fails to enact

1 a joint resolution approving a proposed significant rule,
2 no court or agency may infer any intent of Congress from
3 any action or inaction of Congress with regard to such
4 rule or any related statute.

5 **SEC. 4. CONGRESSIONAL APPROVAL PROCEDURE FOR SIG-**
6 **NIFICANT RULES.**

7 (a) INTRODUCTION.—The majority leader of each
8 House of the Congress shall introduce (by request) a joint
9 resolution comprised solely of the text of a proposed sig-
10 nificant rule not later than 3 session days in the Senate
11 or 3 legislative days in the House of Representatives after
12 the date on which an agency submits a report under sec-
13 tion 3(b) containing the text of the proposed significant
14 rule. If the joint resolution is not introduced in either
15 House as provided in the preceding sentence, then any
16 Member of that House may introduce the joint resolution.

17 (b) REFERRAL AND CONSIDERATION.—(1) The joint
18 resolution shall be referred to the appropriate committee
19 of the House in which it is introduced. The committee may
20 report the joint resolution without substantive revision and
21 with or without recommendation or with an adverse rec-
22 ommendation, or the committee may vote not to report
23 the joint resolution. If the committee votes to order the
24 joint resolution reported, it shall be reported not later than
25 the end of the period (not to exceed 45 session days in

1 the Senate or 45 legislative days in the House of Rep-
2 resentatives) established for consideration of the joint res-
3 olution by the Speaker of the House of Representatives
4 or the majority leader of the Senate, as the case may be.
5 Except in the case of a joint resolution which a committee
6 votes not to report, a committee failing to report a joint
7 resolution within such period shall be automatically dis-
8 charged from consideration of the joint resolution, and it
9 shall be placed on the appropriate calendar.

10 (2) A vote on final passage of the joint resolution
11 shall be taken in that House on or before the close of the
12 90th session day in the Senate or 90th legislative day in
13 the House of Representatives after the date of the intro-
14 duction of the joint resolution in that House.

15 (3)(A) A motion in the House of Representatives to
16 proceed to the consideration of a joint resolution under
17 this section shall be highly privileged and not debatable.
18 An amendment to the motion shall not be in order, nor
19 shall it be in order to move to reconsider the vote by which
20 the motion is agreed to or disagreed to.

21 (B) Debate in the House of Representatives on a
22 joint resolution under this section shall be limited to not
23 more than 4 hours, which shall be divided equally between
24 those favoring and those opposing the joint resolution. A
25 motion further to limit debate shall not be debatable. It

1 shall not be in order to move to recommit a joint resolution
2 under this section or to move to reconsider the vote by
3 which the joint resolution is agreed to or disagreed to.

4 (C) All appeals from the decisions of the chair relat-
5 ing to the application of the Rules of the House of Rep-
6 resentatives to the procedure relating to a joint resolution
7 under this section shall be decided without debate.

8 (D) Except to the extent specifically provided in the
9 preceding provisions of this subsection, consideration of a
10 joint resolution under this section shall be governed by the
11 Rules of the House of Representatives applicable to other
12 joint resolutions in similar circumstances.

13 (4)(A) A motion in the Senate to proceed to the con-
14 sideration of a joint resolution under this section shall be
15 privileged and not debatable. An amendment to the motion
16 shall not be in order, nor shall it be in order to move to
17 reconsider the vote by which the motion is agreed to or
18 disagreed to.

19 (B) Debate in the Senate on a joint resolution under
20 this section, and all debatable motions and appeals in con-
21 nection therewith, shall be limited to not more than 10
22 hours. The time shall be equally divided between, and con-
23 trolled by, the majority leader and the minority leader or
24 their designees.

1 (C) Debate in the Senate on any debatable motion
2 or appeal in connection with a joint resolution under this
3 section shall be limited to not more than 1 hour, to be
4 equally divided between, and controlled by, the mover and
5 the manager of the joint resolution, except that in the
6 event the manager of the joint resolution is in favor of
7 any such motion or appeal, the time in opposition thereto,
8 shall be controlled by the minority leader or his designee.
9 Such leaders, or either of them, may, from time under
10 their control on the passage of a joint resolution, allot ad-
11 ditional time to any Senator during the consideration of
12 any debatable motion or appeal.

13 (D) A motion in the Senate to further limit debate
14 on a joint resolution under this section is not debatable.
15 A motion to recommit a joint resolution under this section
16 is not in order.

17 (c) AMENDMENTS PROHIBITED.—No amendment to
18 a joint resolution considered under this section shall be
19 in order in either the House of Representatives or the Sen-
20 ate. No motion to suspend the application of this sub-
21 section shall be in order in either House, nor shall it be
22 in order in either House for the presiding officer to enter-
23 tain a request to suspend the application of this subsection
24 by unanimous consent.

1 (d) TREATMENT IF THE OTHER HOUSE HAS
2 ACTED.—If, before the passage by one House of a joint
3 resolution of that House described in subsection (a), that
4 House receives from the other House a joint resolution
5 described in subsection (a) comprised of the same text,
6 then—

7 (1) the procedure in that House shall be the
8 same as if no joint resolution had been received from
9 the other House, and

10 (2) the vote on final passage shall be on the
11 joint resolution of the other House.

12 (e) CONSTITUTIONAL AUTHORITY.—This section is
13 enacted by Congress—

14 (1) as an exercise of the rulemaking power of
15 the Senate and the House of Representatives, re-
16 spectively, and as such it is deemed a part of the
17 rules of each House, respectively, but applicable only
18 with respect to the procedure to be followed in that
19 House in the case of a joint resolution described in
20 subsection (a), and it supersedes other rules only to
21 the extent that it is inconsistent with such rules; and

22 (2) with full recognition of the constitutional
23 right of either House to change the rules (so far as
24 relating to the procedure of that House) at any time,

1 in the same manner, and to the same extent as in
2 the case of any other rule of that House.

3 **SEC. 5. EXISTING RULES.**

4 (a) IN GENERAL.—Any existing rule may be revised
5 or revoked in accordance with this section if a petition for
6 review so requests.

7 (b) INTRODUCTION.—If a petition for review is filed
8 with the Clerk of the House of Representatives or the Sec-
9 retary of the Senate, the Clerk or the Secretary shall de-
10 termine whether the petition meets the requirements of
11 subsection (d). If the Clerk or the Secretary determines
12 that a petition meets those requirements, he or she shall
13 notify the majority leader of that House. The majority
14 leader so notified shall, within 3 session days in the Senate
15 or 3 legislative days in the House of Representatives, in-
16 troduce a joint resolution (by request) that makes the revi-
17 sion or revocation of existing rules proposed by the peti-
18 tion upon the enactment of that joint resolution. If the
19 joint resolution is not introduced as provided in the pre-
20 ceding sentence, then any Member of that House may in-
21 troduce the joint resolution.

22 (c) PROCEDURES FOR CONSIDERATION IN THE
23 HOUSE OF REPRESENTATIVES AND THE SENATE.—Any
24 joint resolution introduced under subsection (b) shall be
25 considered in the House of Representatives and the Senate

1 in accordance with the procedures respecting a joint reso-
2 lution set forth in section 4.

3 (d) PETITIONS FOR REVIEW.—A petition for review
4 under subsection (a) shall contain the following:

5 (1) Any rule affected by the petition and the
6 contents of that rule as it would exist if a joint reso-
7 lution revising or revoking that rule pursuant to the
8 petition were enacted.

9 (2) For a petition in the Senate, the signatures
10 of 30 Senators, or for a petition in the House of
11 Representatives, the signatures of 120 Members.

12 **SEC. 6. DEFINITIONS.**

13 For purposes of this Act:

14 (1) AGENCY.—The term “agency” has the
15 meaning given that term in section 551 of title 5,
16 United States Code (relating to administrative pro-
17 cedure).

18 (2) SESSION DAY AND LEGISLATIVE DAY.—The
19 terms “session day” and “legislative day” do not in-
20 clude, with respect to a House of the Congress, any
21 day throughout which that House is not in session.

22 (3) RULE.—(A) The term “rule” has the mean-
23 ing given such term by section 551 of title 5, United
24 States Code, except that such term does not in-
25 clude—

1 (i) any rule of particular applicability in-
2 cluding a rule that approves or prescribes—

3 (I) future rates, wages, prices, serv-
4 ices, or allowances therefor,

5 (II) corporate or financial structures,
6 reorganizations, mergers, or acquisitions
7 thereof, or

8 (III) accounting practices or disclo-
9 sures bearing on any of the foregoing, or

10 (ii) any rule of agency organization, per-
11 sonnel, procedure, practice, or any routine mat-
12 ter.

13 (B) The term “final rule” means any final rule
14 or interim final rule.

15 (4) SIGNIFICANT RULE.—The term “significant
16 rule” means any rule proposed by an agency that is
17 specified or described as such in the Act that au-
18 thorizes the rule.

19 **SEC. 7. EXEMPTION FOR MONETARY POLICY.**

20 Nothing in this Act applies to any rule concerning
21 monetary policy proposed or implemented by the Board
22 of Governors of the Federal Reserve System or the Fed-
23 eral Open Market Committee.

○