

113TH CONGRESS
2D SESSION

H. R. 5034

To amend title 5, United States Code, to provide for certain special congressional review procedures for EPA rulemakings.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2014

Mr. GRAVES of Missouri introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, Agriculture, 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

A BILL

To amend title 5, United States Code, to provide for certain special congressional review procedures for EPA rulemakings.

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 “Stop the EPA Act
5 of 2014”.

6 **SEC. 2. CONGRESSIONAL REVIEW OF EPA RULEMAKING.**

7 Chapter 8 of title 5, United States Code, is amend-
8 ed—

1 (1) by striking the term “chapter” each place
2 it appears, and inserting “subchapter”;

3 (2) by inserting before section 801 the fol-
4 lowing:

5 “SUBCHAPTER A—GENERAL PROCEDURES”;

6 (3) in section 804—

7 (A) in paragraph (1), by inserting before
8 the period at the end the following: “, except
9 that such term shall not include the Environ-
10 mental Protection Agency”; and

11 (B) in paragraph (3)—

12 (i) in subparagraph (B), by striking
13 the “or” at the end;

14 (ii) in subparagraph (C), by striking
15 the period at the end and inserting “; or”;
16 and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(D) any rule made by the Environmental
20 Protection Agency.”;

21 (4) by inserting after section 808 the following:

1 “SUBCHAPTER B—PROCEDURES FOR RULE-
2 MAKING BY THE ENVIRONMENTAL PRO-
3 TECTION AGENCY

4 “§ 811. **Congressional review**

5 “(a)(1)(A) Before a rule made by the Administrator
6 of the Environmental Protection Agency may take effect,
7 the Administrator shall submit to each House of the Con-
8 gress and to the Comptroller General a report con-
9 taining—

10 “(i) a copy of the rule;

11 “(ii) a concise general statement relating to the
12 rule;

13 “(iii) a classification of the rule as a major or
14 nonmajor rule, including an explanation of the clas-
15 sification specifically addressing each criteria for a
16 major rule contained within clauses (i) through (iii)
17 of section 814(2)(A) or within section 814(2)(B);

18 “(iv) a list of any other related regulatory ac-
19 tions taken by or that will be taken by the Adminis-
20 trator of the Environmental Protection Agency that
21 are intended to implement the same statutory provi-
22 sion or regulatory objective as well as the individual
23 and aggregate economic effects of those actions;

24 “(v) a list of any other related regulatory ac-
25 tions taken by or that will be taken by any other

1 Federal agency with authority to implement the
2 same statutory provision or regulatory objective that
3 are intended to implement such provision or objec-
4 tive, of which the Administrator of the Environ-
5 mental Protection Agency is aware, as well as the in-
6 dividual and aggregate economic effects of those ac-
7 tions; and

8 “(vi) the proposed effective date of the rule.

9 “(B) On the date of the submission of the report
10 under subparagraph (A), the Administrator of the Envi-
11 ronmental Protection Agency shall submit to the Comp-
12 troller General and make available to each House of Con-
13 gress—

14 “(i) a complete copy of the cost-benefit analysis
15 of the rule, if any, including an analysis of any jobs
16 added or lost, differentiating between public and pri-
17 vate sector jobs;

18 “(ii) the Administrator’s actions pursuant to
19 sections 603, 604, 605, 607, and 609 of this title;

20 “(iii) the Administrator’s actions pursuant to
21 sections 202, 203, 204, and 205 of the Unfunded
22 Mandates Reform Act of 1995; and

23 “(iv) any other relevant information or require-
24 ments under any other Act and any relevant Execu-
25 tive orders.

1 “(C) Upon receipt of a report submitted under sub-
2 paragraph (A), each House shall provide copies of the re-
3 port to the chairman and ranking member of each stand-
4 ing committee with jurisdiction under the rules of the
5 House of Representatives or the Senate to report a bill
6 to amend the provision of law under which the rule is
7 issued.

8 “(2)(A) The Comptroller General shall provide a re-
9 port on each major rule to the committees of jurisdiction
10 by the end of 15 calendar days after the submission or
11 publication date. The report of the Comptroller General
12 shall include an assessment of the Administrator’s compli-
13 ance with procedural steps required by paragraph (1)(B)
14 and an assessment of whether the major rule imposes any
15 new limits or mandates on private-sector activity.

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

19 “(3) A major rule relating to a report submitted
20 under paragraph (1) shall take effect upon enactment of
21 a joint resolution of approval described in section 812 or
22 as provided for in the rule following enactment of a joint
23 resolution of approval described in section 812, whichever
24 is later.

1 “(4) A nonmajor rule shall take effect as provided
2 by section 813 after submission to Congress under para-
3 graph (1).

4 “(5) If a joint resolution of approval relating to a
5 major rule is not enacted within the period provided in
6 subsection (b)(2), then a joint resolution of approval relat-
7 ing to the same rule may not be considered under this
8 subchapter in the same Congress by either the House of
9 Representatives or the Senate.

10 “(b)(1) A major rule shall not take effect unless the
11 Congress enacts a joint resolution of approval described
12 under section 812.

13 “(2) If a joint resolution described in subsection (a)
14 is not enacted into law by the end of 70 session days or
15 legislative days, as applicable, beginning on the date on
16 which the report referred to in section 811(a)(1)(A) is re-
17 ceived by Congress (excluding days either House of Con-
18 gress is adjourned for more than 3 days during a session
19 of Congress), then the rule described in that resolution
20 shall be deemed not to be approved and such rule shall
21 not take effect.

22 “(c)(1) Notwithstanding any other provision of this
23 section (except subject to paragraph (3)), a major rule
24 may take effect for one 90-calendar-day period if the
25 President makes a determination under paragraph (2) and

1 submits written notice of such determination to the Con-
2 gress.

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

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

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

10 “(C) necessary for national security; or

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

13 “(3) An exercise by the President of the authority
14 under this subsection shall have no effect on the proce-
15 dures under section 812.

16 “(d)(1) In addition to the opportunity for review oth-
17 erwise provided under this subchapter, in the case of any
18 rule for which a report was submitted in accordance with
19 subsection (a)(1)(A) during the period beginning on the
20 date occurring—

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

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

1 before the date the Congress is scheduled to adjourn a
2 session of Congress through the date on which the same
3 or succeeding Congress first convenes its next session, sec-
4 tions 812 and 813 shall apply to such rule in the suc-
5 ceeding session of Congress.

6 “(2)(A) In applying sections 812 and 813 for pur-
7 poses of such additional review, a rule described under
8 paragraph (1) shall be treated as though—

9 “(i) such rule were published in the Federal
10 Register on—

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

13 “(II) in the case of the House of Rep-
14 resentatives, the 15th legislative day,

15 after the succeeding session of Congress first con-
16 venes; and

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

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

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

1 **“§ 812. Congressional approval procedure for major**
2 **rules**

3 “(a)(1) For purposes of this section, the term ‘joint
4 resolution’ means only a joint resolution addressing a re-
5 port classifying a rule as major pursuant to section
6 811(a)(1)(A)(iii) that—

7 “(A) bears no preamble;

8 “(B) bears the following title (with blanks filled
9 as appropriate): ‘Approving the rule submitted by
10 the Environmental Protection Agency relating to
11 _____.’;

12 “(C) includes after its resolving clause only the
13 following (with blanks filled as appropriate): ‘That
14 Congress approves the rule submitted by the Envi-
15 ronmental Protection Agency relating to _____.’;
16 and

17 “(D) is introduced pursuant to paragraph (2).

18 “(2) After a House of Congress receives a report
19 classifying a rule as major pursuant to section
20 811(a)(1)(A)(iii), the majority leader of that House (or
21 his or her respective designee) shall introduce (by request,
22 if appropriate) a joint resolution described in paragraph
23 (1)—

24 “(A) in the case of the House of Representa-
25 tives, within three legislative days; and

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)
7 shall be referred in each House of Congress to the commit-
8 tees having jurisdiction over the provision of law under
9 which the rule is issued.

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

22 “(d)(1) In the Senate, when the committee or com-
23 mittees to which a joint resolution is referred have re-
24 ported, or when a committee or committees are discharged
25 (under subsection (c)) from further consideration of a

1 joint resolution described in subsection (a), it is at any
2 time thereafter in order (even though a previous motion
3 to the same effect has been disagreed to) for a motion
4 to proceed to the consideration of the joint resolution, and
5 all points of order against the joint resolution (and against
6 consideration of the joint resolution) are waived. The mo-
7 tion is not subject to amendment, or to a motion to post-
8 pone, or to a motion to proceed to the consideration of
9 other business. A motion to reconsider the vote by which
10 the motion is agreed to or disagreed to shall not be in
11 order. If a motion to proceed to the consideration of the
12 joint resolution is agreed to, the joint resolution shall re-
13 main the unfinished business of the Senate until disposed
14 of.

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

24 “(3) In the Senate, immediately following the conclu-
25 sion of the debate on a joint resolution described in sub-

1 section (a), and a single quorum call at the conclusion of
2 the debate if requested in accordance with the rules of the
3 Senate, the vote on final passage of the joint resolution
4 shall occur.

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

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

1 shall not be in order to reconsider the vote on passage.
2 If a vote on final passage of the joint resolution has not
3 been taken by the third Thursday on which the Speaker
4 may recognize a Member under this subsection, such vote
5 shall be taken on that day.

6 “(f)(1) If, before passing a joint resolution described
7 in subsection (a), one House receives from the other a
8 joint resolution having the same text, then—

9 “(A) the joint resolution of the other House
10 shall not be referred to a committee; and

11 “(B) the procedure in the receiving House shall
12 be the same as if no joint resolution had been re-
13 ceived from the other House until the vote on pas-
14 sage, when the joint resolution received from the
15 other House shall supplant the joint resolution of
16 the receiving House.

17 “(2) This subsection shall not apply to the House of
18 Representatives if the joint resolution received from the
19 Senate is a revenue measure.

20 “(g) If either House has not taken a vote on final
21 passage of the joint resolution by the last day of the period
22 described in section 811(b)(2), then such vote shall be
23 taken on that day.

24 “(h) This section and section 813 are enacted by
25 Congress—

1 “(1) as an exercise of the rulemaking power of
 2 the Senate and House of Representatives, respec-
 3 tively, and as such is deemed to be part of the rules
 4 of each House, respectively, but applicable only with
 5 respect to the procedure to be followed in that
 6 House in the case of a joint resolution described in
 7 subsection (a) and superseding other rules only
 8 where explicitly so; and

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

14 **“§ 813. Congressional disapproval procedure for**
 15 **nonmajor rules**

16 “(a) For purposes of this section, the term ‘joint res-
 17 olution’ means only a joint resolution introduced in the
 18 period beginning on the date on which the report referred
 19 to in section 811(a)(1)(A) is received by Congress and
 20 ending 60 days thereafter (excluding days either House
 21 of Congress is adjourned for more than 3 days during a
 22 session of Congress), the matter after the resolving clause
 23 of which is as follows: ‘That Congress disapproves the
 24 nonmajor rule submitted by the Environmental Protection
 25 Agency relating to _____, and such rule shall have no

1 force or effect.’ (The blank spaces being appropriately
2 filled in).

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

6 “(c) In the Senate, if the committee to which is re-
7 ferred a joint resolution described in subsection (a) has
8 not reported such joint resolution (or an identical joint
9 resolution) at the end of 15 session days after the date
10 of introduction of the joint resolution, such committee may
11 be discharged from further consideration of such joint res-
12 olution upon a petition supported in writing by 30 Mem-
13 bers of the Senate, and such joint resolution shall be
14 placed on the calendar.

15 “(d)(1) In the Senate, when the committee to which
16 a joint resolution is referred has reported, or when a com-
17 mittee is discharged (under subsection (c)) from further
18 consideration of a joint resolution described in subsection
19 (a), it is at any time thereafter in order (even though a
20 previous motion to the same effect has been disagreed to)
21 for a motion to proceed to the consideration of the joint
22 resolution, and all points of order against the joint resolu-
23 tion (and against consideration of the joint resolution) are
24 waived. The motion is not subject to amendment, or to
25 a motion to postpone, or to a motion to proceed to the

1 consideration of other business. A motion to reconsider the
2 vote by which the motion is agreed to or disagreed to shall
3 not be in order. If a motion to proceed to the consideration
4 of the joint resolution is agreed to, the joint resolution
5 shall remain the unfinished business of the Senate until
6 disposed of.

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

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

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

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

4 “(1) after the expiration of the 60 session days
5 beginning with the applicable submission or publica-
6 tion date, or

7 “(2) if the report under section 811(a)(1)(A)
8 was submitted during the period referred to in sec-
9 tion 811(d)(1), after the expiration of the 60 session
10 days beginning on the 15th session day after the
11 succeeding session of Congress first convenes.

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

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

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

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

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

3 **“§ 814. Definitions**

4 “For purposes of this subchapter—

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

7 “(2) The term ‘major rule’ means any rule, in-
8 cluding an interim final rule, that the Administrator
9 of the Office of Information and Regulatory Affairs
10 of the Office of Management and Budget finds—

11 “(A) has resulted in or is likely to result
12 in—

13 “(i) an annual effect on the economy
14 of \$50,000,000 or more;

15 “(ii) a major increase in costs or
16 prices for consumers, individual industries,
17 Federal, State, or local government agen-
18 cies, or geographic regions; or

19 “(iii) significant adverse effects on
20 competition, employment, investment, pro-
21 ductivity, innovation, or on the ability of
22 United States-based enterprises to compete
23 with foreign-based enterprises in domestic
24 and export markets;

1 “(B) is made by the Administrator of the
2 Environmental Protection Agency and that
3 would have a significant impact on a substan-
4 tial number of agricultural entities, as deter-
5 mined by the Secretary of Agriculture (who
6 shall publish such determination in the Federal
7 Register); or

8 “(C) is a rule that implements or provides
9 for the imposition or collection of a carbon tax.

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

12 “(4) The term ‘rule’ has the meaning given
13 such term in section 551, except that such term does
14 not include any rule of particular applicability, in-
15 cluding a rule that approves or prescribes for the fu-
16 ture rates, wages, prices, services, or allowances
17 therefore, corporate or financial structures, reorga-
18 nizations, mergers, or acquisitions thereof, or ac-
19 counting practices or disclosures bearing on any of
20 the foregoing.

21 “(5) The term ‘submission date or publication
22 date’, except as otherwise provided in this sub-
23 chapter, means—

1 “(A) in the case of a major rule, the date
2 on which the Congress receives the report sub-
3 mitted under section 811(a)(1); and

4 “(B) in the case of a nonmajor rule, the
5 later of—

6 “(i) the date on which the Congress
7 receives the report submitted under section
8 811(a)(1); and

9 “(ii) the date on which the nonmajor
10 rule is published in the Federal Register, if
11 so published.

12 “(6) The term ‘agricultural entity’ means any
13 entity involved in or related to agricultural enter-
14 prise, including enterprises that are engaged in the
15 business of production of food and fiber, ranching
16 and raising of livestock, aquaculture, and all other
17 farming and agricultural related industries.

18 “(7) The term ‘carbon tax’ means a fee, levy,
19 or price on—

20 “(A) emissions, including carbon dioxide
21 emissions generated by the burning of coal, nat-
22 ural gas, or oil; or

23 “(B) coal, natural gas, or oil based on
24 emissions, including carbon dioxide emissions

1 that would be generated through the fuel’s com-
2 bustion.

3 **“§ 815. Judicial review**

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

6 “(b) Notwithstanding subsection (a), a court may de-
7 termine whether the Administrator of the Environmental
8 Protection Agency has completed the necessary require-
9 ments under this subchapter for a rule to take effect.

10 “(c) The enactment of a joint resolution of approval
11 under section 812 shall not be interpreted to serve as a
12 grant or modification of statutory authority by Congress
13 for the promulgation of a rule, shall not extinguish or af-
14 fect any claim, whether substantive or procedural, against
15 any alleged defect in a rule, and shall not form part of
16 the record before the court in any judicial proceeding con-
17 cerning a rule except for purposes of determining whether
18 or not the rule is in effect.

19 **“§ 816. Effective date of certain rules**

20 “Notwithstanding section 811—

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

1 “(2) any rule other than a major rule which the
 2 Administrator of the Environmental Protection
 3 Agency for good cause finds (and incorporates the
 4 finding and a brief statement of reasons therefore in
 5 the rule issued) that notice and public procedure
 6 thereon are impracticable, unnecessary, or contrary
 7 to the public interest,

8 shall take effect at such time as the Administrator of the
 9 Environmental Protection Agency determines.”; and

10 (5) by conforming the table of contents for such
 11 chapter accordingly.

12 **SEC. 3. BUDGETARY EFFECTS OF RULES SUBJECT TO SEC-**
 13 **TION 812 OF TITLE 5, UNITED STATES CODE.**

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

17 “(E) BUDGETARY EFFECTS OF RULES
 18 SUBJECT TO SECTION 812 OF TITLE 5, UNITED
 19 STATES CODE.—Any rules subject to the con-
 20 gressional approval procedure set forth in sec-
 21 tion 812 of chapter 8 of title 5, United States
 22 Code, affecting budget authority, outlays, or re-
 23 ceipts shall be assumed to be effective unless it
 24 is not approved in accordance with such sec-
 25 tion.”.

1 **SEC. 4. TRANSITION RULE.**

2 Each major rule (as such term is defined in section
3 814 of title 5, United States Code) of the Environmental
4 Protection Agency that is in effect as of the date of enact-
5 ment of this Act shall cease to have effect beginning on
6 the date that is 180 after the date of enactment of this
7 Act, unless the Administrator of the Environmental Pro-
8 tection Agency submits such rule for review under sub-
9 chapter B of chapter 8 of title 5, United States Code.

10 **SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF**
11 **RULES.**

12 (a) IN GENERAL.—The Comptroller General of the
13 United States shall conduct a study to determine, as of
14 the date of the enactment of this Act—

15 (1) how many rules (as such term is defined in
16 section 814 of title 5, United States Code) were in
17 effect;

18 (2) how many major rules (as such term is de-
19 fined in section 814 of title 5, United States Code)
20 were in effect; and

21 (3) the total estimated economic cost imposed
22 by all such rules.

23 (b) REPORT.—Not later than one year after the date
24 of the enactment of this Act, the Comptroller General of
25 the United States shall submit a report to Congress that

- 1 contains the findings of the study conducted under sub-
- 2 section (a).

