113TH CONGRESS
2D Session

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. Graves of Missouri introduced the following bill; which was referred to the Committee on ______________________

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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Stop the EPA Act of 2014”.

4 SEC. 2. CONGRESSIONAL REVIEW OF EPA RULEMAKING.

5 Chapter 8 of title 5, United States Code, is amended—
(1) by striking the term “chapter” each place it appears, and inserting “subchapter”;

(2) by inserting before section 801 the following:

“SUBCHAPTER A—GENERAL PROCEDURES”;

(3) in section 804—

(A) in paragraph (1), by inserting before the period at the end the following: “, except that such term shall not include the Environmental Protection Agency”; and

(B) in paragraph (3)—

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

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

(iii) by adding at the end the following:

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

(4) by inserting after section 808 the following:
§ 811. Congressional review

“(a)(1)(A) Before a rule made by the Administrator of the Environmental Protection Agency may take effect, the Administrator 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 clauses (i) through (iii) of section 814(2)(A) or within section 814(2)(B);

“(iv) a list of any other related regulatory actions taken by or that will be taken by the Administrator of the Environmental Protection Agency that are intended to implement the same statutory provision or regulatory objective as well as the individual and aggregate economic effects of those actions;

“(v) a list of any other related regulatory actions taken by or that will be taken by any other
Federal agency with authority to implement the same statutory provision or regulatory objective that are intended to implement such provision or objective, of which the Administrator of the Environmental Protection Agency is aware, as well as the individual and aggregate economic effects of those actions; and

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

“(B) On the date of the submission of the report under subparagraph (A), the Administrator of the Environmental Protection Agency 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, including an analysis of any jobs added or lost, differentiating between public and private sector jobs;

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

“(iii) the Administrator’s actions pursuant 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 by the end of 15 calendar days after the submission or publication date. The report of the Comptroller General shall include an assessment of the Administrator’s compliance with procedural steps required by paragraph (1)(B) and an assessment of whether the major rule imposes any new limits or mandates on private-sector activity.

“(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 upon enactment of a joint resolution of approval described in section 812 or as provided for in the rule following enactment of a joint resolution of approval described in section 812, whichever is later.
“(4) A nonmajor rule shall take effect as provided by section 813 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 rule may not be considered under this subchapter 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 812.

“(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 811(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), 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 812.

“(d)(1) In addition to the opportunity for review otherwise provided under this subchapter, in the case of any 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 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 812 and 813 shall apply to such rule in the suc-
ceeding session of Congress.

“(2)(A) In applying sections 812 and 813 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 Rep-
representatives, the 15th legislative day,

after the succeeding session of Congress first con-
venes; 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 sub-
sections of this section).
§ 812. Congressional approval procedure for major rules

“(a)(1) For purposes of this section, the term ‘joint resolution’ means only a joint resolution addressing a report classifying a rule as major pursuant to section 811(a)(1)(A)(iii) that—

“(A) bears no preamble;

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

“(C) includes after its resolving clause only the following (with blanks filled as appropriate): ‘That Congress approves the rule submitted by the Environmental Protection Agency relating to ______.’; and

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

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

“(A) in the case of the House of Representatives, within three legislative days; and
“(B) in the case of the Senate, within three session days.

“(3) A joint resolution described in paragraph (1) shall not be subject to amendment at any stage of proceeding.

“(b) A joint resolution described in subsection (a) shall be referred in each House of Congress to the committees having jurisdiction over the provision of law under which the rule is issued.

“(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 mo-
tion is not subject to amendment, or to a motion to post-
pone, 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) In the House of Representatives, if any com-
mittee to which a joint resolution described in subsection
(a) has been referred has not reported it to the House
at the end of 15 legislative days after its introduction,
such committee shall be discharged from further consider-
ation of the joint resolution, and it shall be placed on the
appropriate calendar. On the second and fourth Thursdays
of each month it shall be in order at any time for the
Speaker to recognize a Member who favors passage of a
joint resolution that has appeared on the calendar for at
least 5 legislative days to call up that joint resolution for
immediate consideration in the House without intervention
of any point of order. When so called up a joint resolution
shall be considered as read and shall be debatable for 1
hour equally divided and controlled by the proponent and
an opponent, and the previous question shall be considered
as ordered to its passage without intervening motion. It
shall not be in order to reconsider the vote on passage.

If a vote on final passage of the joint resolution has not been taken by the third Thursday on which the Speaker may recognize a Member under this subsection, such vote shall be taken on that day.

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

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

“(B) the procedure in the receiving House shall be the same as if no joint resolution had been received from the other House until the vote on passage, when the joint resolution received from the other House shall supplant the joint resolution of the receiving House.

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

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

“(h) This section and section 813 are enacted by Congress—
“(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such is deemed to be 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 superseding other rules only where explicitly so; and

“(2) with full recognition of the Constitutional right of either House to change the rules (so far as they relate 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.

“§ 813. 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 811(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 Environmental Protection Agency relating to ______, and such rule shall have no
force or effect.’ (The blank spaces being appropriately filled in).

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

“(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 811(a)(1)(A) was submitted during the period referred to in section 811(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.

§ 814. Definitions

“For purposes of this subchapter—

“(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—

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

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

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

“(iii) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or
“(B) is made by the Administrator of the Environmental Protection Agency and that would have a significant impact on a substantial number of agricultural entities, as determined by the Secretary of Agriculture (who shall publish such determination in the Federal Register); or

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

“(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 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.

“(5) The term ‘submission date or publication date’, except as otherwise provided in this subchapter, means—
“(A) in the case of a major rule, the date on which the Congress receives the report submitted under section 811(a)(1); and

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

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

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

“(6) The term ‘agricultural entity’ means any entity involved in or related to agricultural enterprise, including enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries.

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

“(A) emissions, including carbon dioxide emissions generated by the burning of coal, natural gas, or oil; or

“(B) coal, natural gas, or oil based on emissions, including carbon dioxide emissions
that would be generated through the fuel’s combus-
tion.

“§ 815. Judicial review

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

“(b) Notwithstanding subsection (a), a court may determine whether the Administrator of the Environmental Protection Agency has completed the necessary requirements under this subchapter for a rule to take effect.

“(c) The enactment of a joint resolution of approval under section 812 shall not be interpreted to serve as a grant or modification of statutory authority by Congress for the promulgation of a rule, shall not extinguish 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 except for purposes of determining whether or not the rule is in effect.

“§ 816. Effective date of certain rules

“(Notwithstanding section 811—

“(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for acom-
mercial, recreational, or subsistence activity related to hunting, fishing, or camping; or
“(2) any rule other than a major rule which the Administrator of the Environmental Protection 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 Administrator of the Environmental Protection Agency determines.”; and

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

SEC. 3. BUDGETARY EFFECTS OF RULES SUBJECT TO SECTION 812 OF TITLE 5, UNITED STATES CODE.

Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

“(E) BUDGETARY EFFECTS OF RULES SUBJECT TO SECTION 812 OF TITLE 5, UNITED STATES CODE.—Any rules subject to the congressional approval procedure set forth in section 812 of chapter 8 of title 5, United States Code, affecting budget authority, outlays, or receipts shall be assumed to be effective unless it is not approved in accordance with such section.”.
SEC. 4. TRANSITION RULE.

Each major rule (as such term is defined in section 814 of title 5, United States Code) of the Environmental Protection Agency that is in effect as of the date of enactment of this Act shall cease to have effect beginning on the date that is 180 after the date of enactment of this Act, unless the Administrator of the Environmental Protection Agency submits such rule for review under subchapter B of chapter 8 of title 5, United States Code.

SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF RULES.

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

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

(2) how many major rules (as such term is defined in section 814 of title 5, United States Code) were in effect; and

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

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that
contains the findings of the study conducted under subsection (a).