

## [H.R. 427, Regulations from the Executive in Need of Scrutiny Act of 2015](#)

### FLOOR SITUATION

On Tuesday, July 28, 2015, the House will consider [H.R. 427](#), *the Regulations from the Executive in Need of Scrutiny Act of 2015*, under a [structured rule](#). H.R. 427 was introduced on January 21, 2015, by Rep. Todd Young (R-IN) and was referred to the Committee on the Judiciary, and in addition, to the Committees on Rules and the Budget. The Judiciary Committee ordered the bill reported, as amended, by a vote of 15 to 10 on April 15, 2015.

### SUMMARY

H.R. 427 amends the Congressional Review Act (CRA) to require congressional approval of major agency regulations before those regulations can go into effect.

Specifically, the bill requires Congress to pass, and the President to sign, a joint resolution approving a new major regulation issued by a regulatory agency before the regulation may take effect, instead of requiring Congress to disapprove of such regulations. Major regulations are those that produce \$100 million or more in impacts on the U.S. economy, spur major increases in costs or prices for consumers, or have certain other significant adverse effects on the economy.<sup>1</sup> For non-major rules, H.R. 427 continues the current process of allowing the rule to take effect unless Congress passes and the President signs a resolution of *disapproval*, or Congress overrides a presidential veto of such a disapproval resolution.

For all new regulations—both major and non-major—the promulgating agency must submit to Congress and the Comptroller General a report including a copy of the rule, a statement regarding the rule, its classification as major or non-major, other related regulatory actions intended to implement the same statutory provision or regulatory objective and their aggregate economic impact, and its proposed effective date.

On the date of that report's submission, the promulgating agency also must provide other relevant material to Congress and the Comptroller General, including a cost-benefit analysis of the rule. For

<sup>1</sup> [House Report 114-214](#) at 7.

major rules, the Comptroller General must, within 15 calendar days of receiving the initial report, provide to the congressional committees of jurisdiction a report assessing the agency's compliance with procedural steps required by the bill and whether the rule imposes any new limits or mandates on the private sector.

For major regulations, H.R. 427 establishes specific time constraints within which a joint resolution of approval must be introduced, considered by the relevant committees of jurisdiction, and brought before the full House and Senate for a vote. In general, H.R. 427 prevents major regulations from taking effect unless Congress passes and the President signs a joint resolution of *approval* within 70 legislative days of the initial report received by Congress. H.R. 427 limits the permissible content of a joint resolution of approval for a major regulation.

H.R. 427 also provides a presidential exception, allowing a major rule to take effect for one 90-calendar-day period if the President issues an executive order declaring that the rule is needed: because of an imminent threat to health or safety or other emergency; to enforce criminal laws; for national security; or to implement an international trade agreement.

When a non-major rule is promulgated, H.R. 427 provides that each congressional body has 60 legislative days to introduce a joint resolution of *disapproval*. H.R. 427 specifies the permissible content of the joint resolution of disapproval for a non-major regulation. Non-major rules take effect after the report is submitted to Congress, unless a joint resolution of *disapproval* is passed by each house of Congress and signed by the President, or Congress overrides a presidential veto of the disapproval resolution.

The bill defines "major rule" as one that results in or is likely to result in: an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; or 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.

The bill defines "non-major rule" as any rule that is not a major rule.

## BACKGROUND

The Congressional Review Act (CRA) "was adopted to increase the accountability of federal regulatory agencies and the Congress by creating a fast-track legislative process for Congress to overturn a final federal regulation within 60 days of the rule's publication in the Federal Register."<sup>2</sup> However, in the 19 years since its enactment, "federal regulatory agencies have issued well over 60,000 regulations, including well over 1,000 major regulations, while Congress has overturned only one regulation using the CRA."<sup>3</sup>

According to the Congressional Research Service (CRS), since its enactment in 1996, federal agencies have published 71,918 final rules in the Federal Register.<sup>4</sup> Of those rules, 1,262 have been major rules. A CRS study found that, as of May 2008, "only 47 joint resolutions of disapproval had

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<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> See CRS Report—"[Counting Regulations: An Overview of Rulemaking, Types of Federal Regulations, and Pages in the Federal Register](#)," July 14, 2015 at 5 and 6.

been introduced in both houses of Congress, relating to just 28 rules. During that same period, federal agencies had promulgated 47,540 major and non-major rules.<sup>5</sup>

Many believe the need to strengthen the CRA has become particularly important given the number and consequence of regulations issued during the Obama Administration. In 2014, for example, “federal agencies promulgated 3,541 final rules, while Congress passed and the President signed into law only 224 statutes.”<sup>6</sup> The total costs of federal regulations are “estimated to exceed \$1.8 trillion—a figure that equals eleven percent” of the Gross Domestic Product (GDP) of the United States in 2013.<sup>7</sup>

According to the bill’s sponsor, “The REINS Act is key to reforming our nation’s regulatory system so that the American people can hold Congress accountable for the law of the land . . . Requiring an up-or-down vote by Congress on major regulations restores the notion that the legislative branch is in charge of writing laws, brings transparency to our regulatory system, and ensures our constituents know who is responsible when burdensome regulations take effect.”<sup>8</sup>

The House passed a similar bill ([H.R. 367](#)) by a vote of [232 to 183](#) on August 2, 2013. The Senate did not act on the bill during the 113<sup>th</sup> Congress. The House also passed a similar bill ([H.R. 10](#)) in the 112<sup>th</sup> Congress by a vote of [241 to 184](#) on December 7, 2011.

## COST

The Congressional Budget Office (CBO) [estimates](#) that enacting H.R. 427 would have significant effects on both direct spending and revenues; therefore, pay-as-you-go procedures apply. CBO also expects that implementing H.R. 427 also could have a significant impact on spending subject to appropriation, but cannot determine the magnitude of that effect.

## AMENDMENTS

1. [Rep. David Young \(R-IA\)](#)—The amendment requires agencies to publish in the federal register a list of information on which a rule is based, including data, scientific and economic studies, and cost-benefit analyses, and where the public can access it online.
2. [Rep. Jason Smith \(R-MO\)](#)—The amendment requires congressional approval for all rules proposed under the authority of the Affordable Care Act.
3. [Rep. Pete Sessions \(R-TX\)](#)—The amendment requires the agency submitting the report on a proposed Federal rule to include an assessment, as part of the cost-benefit analysis submitted to the Comptroller General and each House of Congress, of anticipated jobs gained or lost as a result of implementation, and to specify whether those jobs will come from the public or private sector.
4. [Rep. Hank Johnson \(D-GA\)](#)—The amendment adds an exception to the bill for rules that the Administrator of the Office of Management and Budget determines would result in net job growth.

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<sup>5</sup> [House Report 114-214](#) at 8.

<sup>6</sup> *Id.* at 9.

<sup>7</sup> *Id.*

<sup>8</sup> See Press Release—“[Sen. Rand Paul, Rep. Todd Young introduce bill to restore Congressional accountability for lawmaking](#),” January 21, 2015.

5. [Rep. Lois Capps \(D-CA\)](#)—The amendment ensures that any rule intended to ensure the safety of natural gas or hazardous materials pipelines or prevent, mitigate, or reduce the impact of spills from such pipelines is not considered a “major rule” under the bill.
6. [Rep. David Cicilline \(D-RI\)](#)—The amendment exempts rules pertaining to the protection of the public health or safety from the requirements of the Act.
7. [Rep. Sheila Jackson Lee \(D-TX\)](#)—The amendment provides a "special rule" pertaining to the safety of any products specifically designed to be used or consumed by a child under the age of 2 years (including cribs, car seats, and infant formula).
8. [Rep. Gwen Moore \(D-WI\)](#)—The amendment exempts rules issued by the Consumer Financial Protection Bureau from the requirements of the bill.
9. [Rep. Jerrold Nadler \(D-NY\)](#)—The amendment exempts from the bill's congressional approval requirement any rule pertaining to nuclear reactor safety standards.
10. [Rep. Mark Pocan \(D-WI\)](#)—The amendment exempts the Department of Veterans Affairs from the requirements of this legislation, in regards to rulemaking for the availability of affordable medication and effective health care management for veterans.

#### **STAFF CONTACT**

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.