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**Folder Title:** JGR/Regulatory Oversight and  
Control Act of 1983  
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THE WHITE HOUSE

WASHINGTON

October 17, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 3939 - "The Regulatory Oversight  
and Control Act of 1983"

OMB has asked for our views by October 27 on the above-referenced bill, which has been introduced by a group of House Republicans under the leadership of Congressman Trent Lott. The bill would effect several major changes in the regulatory process, requiring cost-benefit analysis of proposed rules, review of existing rules, and sunset provisions for major rules. The bill also contains a modified "Bumpers Amendment" and a provision obviating current "race to the courthouse" problems through a random forum selection process. Finally, the bill responds to the Chadha decision by requiring a joint resolution of approval before "major" rules can take effect and a ninety-day report and wait period providing an opportunity for a joint resolution of disapproval with respect to "minor" rules. A major rule is one designated as such by the President or issuing agency, or one with an annual economic impact of \$100 million or more. You will recall that we sent a memorandum to Darman on October 7 (copy attached) objecting on several grounds to a proposed letter from Ken Duberstein to Lott concerning the bill.

This bill is of course a major undertaking, and the Administration response will have to be distilled from comments supplied by numerous departments and agencies, in particular the Justice Department and those offices that have been engaged in the regulatory reform effort. At this point, all we can do is highlight some problem areas. The attached draft memorandum does so, pointing out: (1) the burden of mandating agency review of existing regulations, (2) objections to the modified Bumpers Amendment previously voiced by the Justice Department, (3) objections to hobbling agency rulemaking by requiring affirmative Congressional assent to all major rules, (4) a constitutional objection to a detail in the legislative veto provisions.

Attachment

THE WHITE HOUSE

WASHINGTON

October 17, 1983

MEMORANDUM FOR JAMES C. MURR  
ASSISTANT DIRECTOR FOR LEGISLATIVE  
REFERENCE  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING <sup>Orig. signed by F.F.</sup>  
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 3939 - "The Regulatory Oversight  
and Control Act of 1983"

Counsel's Office has reviewed the above-referenced bill. Several of its provisions, such as those mandating regulatory analyses of agency rules and requiring agencies to adopt the most cost-effective alternative, appear to be consistent with the Administration's approach to regulatory reform. Other provisions of the bill would seem to impose excessive burdens on the regulatory agencies in a manner that could well impede the achievement of Administration objectives.

Of particular concern is the bill's response to the Supreme Court's decision in INS v. Chadha. Requiring affirmative Congressional approval of all major proposed rules, while constitutionally acceptable under Chadha, would effectively halt agency rulemaking. While this may seem a halcyon prospect with respect to some agencies, it would also hobble Administration efforts to reform existing regulatory schemes. Depriving agencies of authority to issue regulations without Congressional approval would represent a dramatic shift of power from the executive to the legislative branch, and is, in our view, an extreme overreaction to the Chadha decision.

We would also point out that in § 201 of the bill, proposed § 802(a)(3)(b)(ii) of Title 5, United States Code, is constitutionally invalid under Chadha. That provision would permit regulations that would become effective after expiration of a 90-day waiting period in the absence of a joint resolution of disapproval to become effective earlier upon rejection by one House of such a resolution. This gives legal effect to action by Congress (rejection by one House) that does not satisfy the bicameralism or presentment requirements of Chadha.

Section 103 of the bill, proposed § 706 of Title 5, United States Code, is the so-called modified Bumpers Amendment. On September 21, 1983, Assistant Attorney General Jonathan Rose advised the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee that the Justice Department objected to similar provisions in S. 1080. We assume that those objections would also apply to this bill.

Finally, we would note the tremendous burden this bill would impose on agencies by requiring review of existing major rules. Such a blunderbuss approach may not be the most efficient use of each agency's time and resources.

FFF:JGR:aea 10/17/83

cc: FFfielding  
JGRoberts  
Subj  
Chron

THE WHITE HOUSE

WASHINGTON

October 17, 1983

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FFF:JGR:aea 10/17/83

cc: FFFielding  
JGRoberts  
Subj  
Chron

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

FG

- O - OUTGOING
  - H - INTERNAL
  - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1 1 1

JR

Name of Correspondent: James C. MURR

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: H.R. 3939 "The Regulatory Oversight and Control Act of 1983"

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>WHOLL</u>		<u>ORIGINATOR</u>	<u>DD 83,10,07</u>		<u>1 1 1</u>
<u>WAT 18</u>		<u>D</u>	<u>DD 83,10,07</u>	<u>S</u>	<u>83,10,17</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

October 5, 1983

178351

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

SEE DISTRIBUTION ATTACHED


SUBJECT: H.R. 3939, "The Regulatory Oversight and Control Act of 1983" (Summary attached)

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

Thursday, October 27, 1983.

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.

  
James C. Murr for  
Assistant Director for  
Legislative Reference

Enclosure

- |               |   |              |            |           |           |
|---------------|---|--------------|------------|-----------|-----------|
| cc: B. Bedell | <input checked="" type="checkbox"/> E. Fielding | E. Strait    | R. Howard  | J. Hill   | M. Allen  |
| W. Weiss      |   | R. Adkins    | D. Crabill | B. Martin | K. Wilson |
| M. Horowitz   | J. Walker                                       | D. Kleinberg | H. Loweth  | P. Szervo |           |

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Federal Maritime Commission  
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Central Intelligence Agency  
Civil Aeronautics Board  
National Credit Union Administration

BRIEF SUMMARY OF THE "REGULATORY OVERSIGHT & CONTROL ACT OF 1983"

TITLE I -- AGENCY RULEMAKING IMPROVEMENTS  
(Amendments to the Administrative Procedure Act)

Regulatory Analysis of Major Rules -- Agencies would be required to perform regulatory analyses of major rules and alternatives. Major rules are those which the agency or President determine would have an annual impact on the economy of \$100 million or more or would otherwise have a substantial impact. The agency would be required to choose the most cost-effective alternative unless another alternative is mandated by the underlying statute. The President (or the Vice President or other Executive Officer confirmed by the Senate) would establish guidelines for compliance and would review and monitor compliance. The Comptroller General may also monitor compliance.

Regulatory Agenda -- Each agency shall publish in the Federal Register in April and October of each year a regulatory agenda listing all rules the agency tends to propose, promulgate, modify, repeal or otherwise consider in the next 12-months. Certain information is required to be included with each rule listed on the agenda.

Agency Review of Existing Rules -- Not later than nine months after the effective date, each agency shall publish in the Federal Register a schedule for the review of existing major rules over the next ten years. A final schedule would be published not later than six months later, after public comment. The President could add rules to this review schedule. The reviews would be subject to the same comment and analysis requirements as new major rules.

Sunset for Major Rules -- All newly proposed and existing major rules scheduled for review shall include a date on which they shall cease to be effective, not later than 10 years after they are initially effective, in the case of new rules, and according to their sunset review schedule for existing rules.

Informal Rulemaking Process -- The informal rulemaking process is amended to provide greater notice, information, and opportunity for oral and written public comment.

Judicial Review (modified "Bumpers Amendment") -- When agency actions are challenged in the courts, the courts shall independently decide all relevant questions without according any presumption in favor or against the actions.

Appeals of Agency Orders ("race to courthouse" problem) -- When agency actions are challenged in two or more courts of appeals within ten days of their issuance, the Administrative Office of the U.S. Courts shall, by random selection, designate one court in which the record shall be filed.

Intervenor Funding -- Federal funds could not be used for public participation in agency rulemaking proceedings unless specifically authorized by law.

TITLE II -- CONGRESSIONAL REVIEW OF AGENCY RULES  
(Amendments to Administrative Procedure Act)

Submission and Review of Agency Rules -- Agencies would be required to submit most rules of general applicability to Congress for a 90-day review period. The rules would be referred to one committee of primary jurisdiction in each House or to an ad hoc committee if more than one committee has primary jurisdiction.

(OVER)

Congressional Action on Rules -- Major rules could not take effect unless a joint resolution of approval is enacted within 90-days of continuous session of Congress; other rules could take effect unless a joint resolution of disapproval is enacted within the 90-day period, and could take effect sooner if neither House has acted on a resolution within 60-days or if either House has rejected a resolution.

Committee Consideration of Resolutions -- In the case of major rules, resolutions of approval must be introduced by the chairman (or his designee) of the committee to which the rule is referred within one day after the rule is received, and the committee would be required to report the resolution not later than 45-days after receipt of the rule, or would thereafter be discharged of the resolution. Other rules would be subject to joint resolutions of disapproval which the committee could report at its own discretion or would be required to report if a "motion for consideration" is filed within 25-days after the rule is received and is signed by one-fourth of the membership of the House involved not later than 30-days after the rule is received. If the committee has not reported such a resolution within 45-days after receipt of the rule, the resolution would be discharged.

Floor Consideration of Resolutions -- Resolutions reported or discharged would be referred to the appropriate calendar of the House involved, a motion to proceed to their consideration would be privileged and, if adopted, debate on major rules resolutions would be for two-hours, and for other rules resolutions, one-hour. If one House receives a resolution from the other House and has not reported or been discharged of its own resolution within 75-days after the rule is received, the resolution of the other House would be placed on the appropriate calendar.

### TITLE III -- REGULATORY OVERSIGHT & CONTROL AMENDMENTS TO HOUSE RULES (Amendments to the Rules of the House)

House Regulatory Review Calendar -- A Regulatory Review Calendar would be established in the House to which all joint resolutions of approval and disapproval would be referred once reported or discharged from committee. The Calendar would be called on the first and third Monday and second and fourth Tuesday of each month after the approval of the Journal. Priority consideration would be given to resolutions for rules whose review period would expire before the next calling of the Calendar. Motions to proceed to the consideration of a resolution would be nondebatable except for resolutions discharged pursuant to a "motion for consideration" signed by one-fourth of the membership, in which case the motion would be debated for twenty minutes.

Regulatory Appropriations Riders -- The present House rule restricting the offering of limitation amendments to appropriations bills would be amended. At present such limitation amendments can only be offered after other amendments are disposed of and only if the House votes down a motion that the Committee of the Whole rise. Under the proposed rule change, limitation amendments could be considered during the initial amendment process with respect to regulations for which a resolution of disapproval has not been considered by the House, or has been passed but not enacted, during the specified review period.

Oversight Improvements -- Committees would be required to formally adopt oversight plans at the beginning of a Congress and their funding resolutions could not be considered until the plans have been submitted to the Government Operations Committee. Committees would also be required in their final oversight reports to relate their actual oversight activities and accomplishments to their original plans. The Speaker could create special ad hoc oversight committees, subject to House approval.

THE WHITE HOUSE

WASHINGTON

October 7, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT  
DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING <sup>Orig. signed by FFF</sup>  
COUNSEL TO THE PRESIDENT

SUBJECT: Proposed Letter to Trent Lott  
on Regulatory Reform Bill

Counsel's Office has reviewed the proposed letter from Ken Duberstein to Congressman Trent Lott concerning the "Regulatory Oversight and Control Act of 1983." As an initial matter, we would prefer to await the receipt of detailed comments from interested departments before responding to Lott. If some immediate response is considered necessary, it must be phrased in the most general terms and avoid specific comment.

With this in mind, the first sentence of the third paragraph is far too affirmative an expression of support for Title I of the bill, particularly since Title I contains a modified "Bumpers Amendment" that I am not certain the Administration will support. We suggest changing the sentence to read "Much of Title I of your bill appears to be drafted in the spirit of those bills and Executive Order 12291," and making it the last sentence of the previous paragraph.

The second sentence of the third paragraph should be deleted, and no comment should be made on Lott's approach to Chadha until the question has been reviewed by the Justice Department. While Lott's general approach is probably Constitutional, certain particulars appear invalid. For example, Lott's bill would permit regulations that could only be blocked by joint resolution of disapproval to become effective prior to the expiration of the 90-day waiting period upon rejection of a resolution of disapproval by one House. This gives legal effect to action by Congress (rejection by one House) that does not satisfy the bicameralism and presentment requirements of Chadha. Furthermore, the policy implications of Lott's approach should be reviewed prior to any comment.

We also recommend deletion of the last sentence of the fourth paragraph. As written the sentence suggests we have not yet begun a review of the legislative veto question, and

also suggests that we will have a "strategy" to announce on legislative veto. The former implication is inaccurate and the latter may well be. I think it best not to mention legislative veto at all in this letter, simply leaving that as one of the items on which OMB will be seeking agency comment.

FFF:JGR:aea 10/7/83

cc: FFfielding  
JGRoberts  
Subj  
Chron

# DRAFT

Honorable Trent Lott  
House of Representatives  
Washington, D.C. 20515

Dear Trent:

Thank you again for your letter of September 12 enclosing information on what is now H.R. 3939, the "Regulatory Oversight and Control Act of 1983."

We believe that enactment of a general law providing <sup>for</sup> ~~the~~ cost-benefit assessment and Executive Office review of individual agency rules would be a major advance--one that would provide substantial lasting administrative benefits to our system of developing regulations. On September 21, we testified that we supported the applicable portions of the substitute H.R. 746 in 1982, and S. 1080 and H.R. 220 in 1983.

? who?  
if  
OMB,  
say  
"OMB"  
not  
"we"

Do P

Much of ~~We are pleased that Title I of your bill is reflected in the spirit of those bills and Executive Order 12291. [And we note, with interest, your new approach to legislative veto, one that appears consistent with the Supreme Court's recent decisions concerning legislative veto.]~~

appears to be drafted

[See attached if (ag. veto must be addressed)]

Appropriate

We will do all we can to work with you and other interested Members in drafting and winning approval for regulatory reform in this session of Congress. In the meantime, the Legislative Reference Division in OMB is seeking detailed agency analysis of ~~comments on~~ H.R. 3939. The Cabinet Council on Legal Policy will soon be

proper course for the

to take

reviewing the ~~whole~~ Administration ~~strategy~~ on legislative veto and other related issues.

Thank you for your interest and support, and we will be contacting you further as our review of this bill continues.

Sincerely,

KW

{ If something must be said on (as. veto) }

"We will also ask the Justice Department to review carefully, in light of the Supreme Court's recent Chabon decision, the bill's provisions on Congressional review of proposed regulations."

11-11-83  
10/5

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SP!

We are pleased that Title I of your bill is modelled in the spirit of those bills and Executive Order 12291. And we note, with interest, your new approach to legislative veto, one that appears consistent with the Supreme Court's recent decisions concerning legislative veto.

We will do all we can to work with you and other interested members in drafting and winning approval for regulatory reform in this session of Congress. In the meantime, the Legislative Reference Division in OMB is seeking detailed agency comments on H.R. 3939. The Cabinet Council on Legal Policy will soon be

reviewing the whole Administration strategy on legislative veto and other related issues.

Thank you for your interest and support, and we will be contacting you further as our review of this bill continues.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. M. D.", is written above a horizontal line.

TRENT LOTT  
5TH DISTRICT, MISSISSIPPI

REPUBLICAN WHIP

RULES COMMITTEE

ADMINISTRATIVE ASSISTANT  
TOM H. ANDERSON, JR.

#16000  
Congress of the United States

House of Representatives

Washington, D.C. 20515

September 12, 1983

2400 RAYBURN BUILDING  
WASHINGTON, D.C. 20515  
202-225-5772

DISTRICT OFFICES:  
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601-882-3266  
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601-649-1231

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

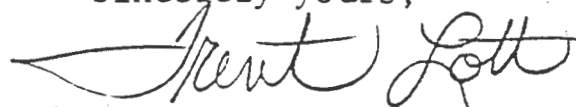
This is to inform you that on Tuesday, Sept. 20th, I will be joined by a group of House Republican leaders in introducing the "Regulatory Oversight and Control Act of 1983" as a response to the Supreme Court's recent decisions holding the legislative veto unconstitutional for regulations. I am enclosing the text and a summary of the bill for your information.

I would greatly appreciate your support for this important legislation. As you will note from the summary, my bill builds on your Executive Order of Feb. 17, 1981, on "Federal Regulation" (EO 12291) and the regulatory reform compromise for H.R. 746 worked-out between the White House, the Speaker, the House Judiciary Committee and the business community in the last Congress.

While part of the purpose of this bill is to reclaim some congressional control over regulations by requiring the approval of major rules and permitting the disapproval of other rules through the enactment of joint resolutions, the bill also extends much of the authority of your Executive Order to independent regulatory agencies as well as involving you in the congressional approval and disapproval actions relating to their regulations. In short, I think the bill has considerable appeal from both the standpoint of the Congress and the President, but most importantly ensures that the regulation process will be under the firm control of elected officials in both branches.

You are to be commended on making regulatory relief one of the key components of your economic recovery program, early in your Administration. But, as we approach a very crucial election, it is just as important that we build on those initiatives and not allow that commitment to wane. The initial reaction I have gotten from representatives of the business community to my bill has been very favorable and encouraging. But obviously for this effort to succeed we will need the full support of your Administration. I am available at your convenience to discuss this further with you or your representatives.

Sincerely yours,



Trent Lott

Enclosures

# BRIEF SUMMARY OF THE "REGULATORY OVERSIGHT & CONTROL ACT OF 1983"

## TITLE I -- AGENCY RULEMAKING IMPROVEMENTS (Amendments to the Administrative Procedure Act)

Regulatory Analysis of Major Rules -- Agencies would be required to perform regulatory analyses of major rules and alternatives. Major rules are those which the agency or President determine would have an annual impact on the economy of \$100 million or more or would otherwise have a substantial impact. The agency would be required to choose the most cost-effective alternative unless another alternative is mandated by the underlying statute. The President (or the Vice President or other Executive Officer confirmed by the Senate) would establish guidelines for compliance and would review and monitor compliance. The Comptroller General may also monitor compliance.

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(OVER)

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### TITLE III -- REGULATORY OVERSIGHT & CONTROL AMENDMENTS TO HOUSE RULES (Amendments to the Rules of the House)

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Oversight Improvements -- Committees would be required to formally adopt oversight plans at the beginning of a Congress and their funding resolutions could not be considered until the plans have been submitted to the Government Operations Committee. Committees would also be required in their final oversight reports to relate their actual oversight activities and accomplishments to their original plans.

98th CONGRESS  
1st Session

H. R. \_\_\_\_\_

IN THE HOUSE OF REPRESENTATIVES

-----

Mr. Lott introduced the following bill; which was referred to  
the Committee on \_\_\_\_\_

A BILL

To amend title 5, United States Code, and the Rules of the House  
of Representatives and the Senate to make regulations more  
cost-effective, to ensure review of rules, to improve  
regulatory planning and management, to provide for periodic  
review of regulations, and to enhance public participation  
in and congressional oversight and control of the regulatory  
process, and for other purposes.

1 Be it enacted by the Senate and House of Representatives  
2 of the United States of America in Congress assembled,

1 short title

2 Section 1. This Act may be cited as the "Regulatory  
3 Oversight and Control Act of 1983".

#### TABLE OF TITLES

TITLE I--AGENCY RULEMAKING IMPROVEMENTS

TITLE II--CONGRESSIONAL REVIEW OF AGENCY RULES

TITLE III--REGULATORY OVERSIGHT AND CONTROL AMENDMENTS TO HOUSE  
RULES

4 Effective date

5 Sec. 2. This Act shall take effect 180 days after the  
6 date of the enactment of this Act, except that the  
7 provisions of subchapter II of chapter 6 of title 5, United  
8 States Code, as added by section 101(c) of this Act, the  
9 amendment made by section 102(a) of this Act, the amendment  
10 made by section 104 of this Act (to the extent such  
11 amendment applies to rules), and the amendment made by  
12 section 201(a) of this Act shall apply only to rules for  
13 which notice of proposed rulemaking is given after such  
14 effective date and to rules promulgated after such effective  
15 date for which a notice of proposed rulemaking is not  
16 required.

#### 17 TITLE I--AGENCY RULEMAKING IMPROVEMENTS

18 Sec. 101. (a) Chapter 6 of title 5, United States Code,  
19 is amended--

20 (1) by inserting immediately after the chapter  
21 heading the following:

1           ``SUBCHAPTER I--REGULATORY FLEXIBILITY'';

2           (2) by inserting immediately before section 601 the  
3 following:

4           ``SUBCHAPTER I--REGULATORY FLEXIBILITY'';

5           and

6           (3) by striking out ``this chapter'' each place it  
7 appears and inserting in lieu thereof ``this  
8 subchapter''.

9           (d) Such chapter 6 is further amended by inserting at  
10 the end of the chapter analysis the following:

          ``SUBCHAPTER II--ANALYSIS OF AGENCY PROPOSALS

          ``Sec.

          ``621. Definitions.

          ``622. Additional procedures for major rules.

          ``623. Judicial review.

          ``624. Executive oversight.

          ``625. Review by Comptroller General.

          ``626. Authority of agencies and the President.

``SUBCHAPTER III--ESTABLISHING AGENCY PRIORITIES AND SCHEDULES  
          FOR COMPLETING PROCEEDINGS

          ``631. Regulatory agenda.

          ``SUBCHAPTER IV--AGENCY REVIEW OF RULES

          ``641. Review of rules.''

11           (c) Such chapter 6 is further amended by adding at the  
12 end thereof the following:

13           ``SUBCHAPTER II--ANALYSIS OF AGENCY PROPOSALS

14           ``621. Definitions

15           ``(a) For purposes of this subchapter, subchapter III,

1 and subchapter IV--

2       “(1) the term ‘agency’ means an agency as defined  
3 in section 551(1) of this title;

4       “(2) the term ‘benefit’, except as used in  
5 subsection (D)(2)(B) of this section, means any direct  
6 or indirect beneficial economic, health, safety,  
7 environmental, or other effect;

8       “(3) the term ‘cost’ means any direct or indirect  
9 adverse economic, health, safety, environmental, or  
10 other effect;

11       “(4) the term ‘economic cost’ means a cost (as  
12 defined in paragraph (3) of this subsection) that is  
13 reasonably quantifiable in monetary terms;

14       “(5) the term ‘rule’ means a rule as defined in  
15 section 551(4) of this title but does not include--

16           “(A) a rule of particular applicability  
17 relating to rates, wages, corporate or financial  
18 structures or reorganizations thereof, prices,  
19 facilities, appliances, services, or allowances  
20 therefor or to valuations, costs or accounting, or  
21 practices relating to such rates, wages, structures  
22 or reorganizations, prices, facilities, appliances,  
23 services, or allowances;

24           “(B) a rule relating to monetary policy  
25 proposed or promulgated by the Board of Governors of

1 the Federal Reserve System;

2 "(C) a rule that is required by statute to be  
3 made on the record after an opportunity for an  
4 agency hearing; or

5 "(D) a rule described in section 553(a) of this  
6 title;

7 "(6) the term 'major rule' means a rule or group of  
8 closely related rules that--

9 "(A) imposes economic costs which are likely to  
10 result in an annual impact on the economy of  
11 \$100,000,000 or more; or

12 "(B) otherwise is designated a major rule by  
13 the agency proposing the rule, or by the President  
14 (not later than thirty days after the publication of  
15 the notice of proposed rulemaking for that rule)--

16 "(i) because the rule would have  
17 significant adverse effects on the environment,  
18 health or safety, competition, employment,  
19 investment, productivity, innovation, or the  
20 ability of enterprises, the principal places of  
21 business of which are in the United States, to  
22 compete in domestic or export markets; or

23 "(ii) because the rule would cause a  
24 substantial increase in costs or prices for wage  
25 earners, consumers, individual industries,

1            nonprofit organizations, Federal, State, or  
2            local government agencies, or geographic  
3            regions.

4            "(b)(1) Any designation of a major rule made by the  
5            President under subsection (a)(6)(B) of this section shall  
6            be published in the Federal Register, together with a  
7            succinct statement of the basis for the designation. The  
8            President may not delegate his authority to make such a  
9            designation.

10           "(2) The term 'major rule' as defined in subsection  
11           (a)(6)(A) of this section does not include--

12            "(A) a rule involving the internal revenue laws of  
13            the United States;

14            "(B) a rule relating to the viability, stability,  
15            asset powers, or categories of accounts of, or  
16            permissible interest rate ceilings applicable to  
17            depository institutions, the deposits or accounts of  
18            which are insured by the Federal Deposit Insurance  
19            Corporation, the Federal Savings and Loan Insurance  
20            Corporation, or the Share Insurance Fund of the National  
21            Credit Union Administration Board;

22            "(C) a rule promulgated under the Agricultural  
23            Adjustment Act to encourage or to regulate the orderly  
24            marketing of agricultural commodities and products, or a  
25            rule promulgated under the Agriculture Act of 1949 to

1 make available price support for agricultural  
2 commodities and products; or

3 "(D) a rule promulgated on an annual basis which  
4 governs the hunting of migratory birds.

5 "§622. Additional procedures for major rules

6 "(a) Before providing notice of proposed rulemaking for  
7 any rule, the agency proposing the rule shall determine  
8 whether the rule is a major rule and shall include in that  
9 notice an explanation of that determination.

10 "(b) Not later than the date on which an agency  
11 provides notice of proposed rulemaking for a major rule (or,  
12 in the case of a rule designated by the President under  
13 section 621(a)(6)(B) of this title, as soon as reasonably  
14 practicable after such designation), the agency shall  
15 issue--

16 "(1) a statement of the need for, and objectives  
17 of, the proposed rule;

18 "(2) a description of those reasonable alternatives  
19 to the proposed rule and its main elements that may  
20 accomplish the stated objectives of the proposed rule in  
21 a manner consistent with the applicable statutes, and,  
22 subject to paragraph (4)(C) of this subsection, if the  
23 proposed rule does not have lower economic costs than  
24 each such alternative, an identification of the  
25 alternative which has the lowest economic costs;

1       “(3) an analysis of the need, if any, for the  
2 establishment or application of requirements in the  
3 proposed rule in order to accommodate regional  
4 differences, including economic, environmental,  
5 demographic, and land-use differences;

6       “(4)(A) an analysis of the benefits and costs of  
7 the proposed rule and of each of the principal  
8 alternatives described in paragraph (2) (including,  
9 where applicable, the alternative identified in such  
10 paragraph having the lowest economic costs);

11       “(B) a comparison of the cost effectiveness of the  
12 proposed rule and each of the principal alternatives;  
13 and

14       “(C) where it is not expressly or by necessary  
15 implication inconsistent with the provisions of the  
16 statute pursuant to which the agency is proposing the  
17 rule, an explanation of how the benefits of the proposed  
18 rule are likely to justify the costs of the proposed  
19 rule, and an explanation of how the proposed rule is  
20 likely to achieve substantially the rulemaking  
21 objectives in a more cost-effective manner than the  
22 alternatives to the proposed rule;

23       “(5) an analysis, where applicable, of the relative  
24 advantages and disadvantages of adopting performance  
25 standards rather than design standards in the proposed

1 rule;

2       “(6)(A) an identification of any scientific,  
3 economic, or other technical report or study upon which  
4 the agency has relied substantially or expects to rely  
5 substantially in the rulemaking; and

6       “(B) a description of how the agency has evaluated  
7 or intends to evaluate the quality, reliability,  
8 accuracy, and relevance of any such scientific or  
9 economic report or study; and

10       “(7) if the proposed rule would regulate activities  
11 which, before the rule was proposed, were regulated only  
12 by State law, a statement of the legal authority for the  
13 agency to regulate such activities.

14       “(c) Not later than the date on which an agency  
15 provides notice of the promulgation of a major rule, the  
16 agency shall issue--

17       “(1) a statement of the need for, and the  
18 objectives of, the rule;

19       “(2) a description of those alternatives to the  
20 rule with respect to which an analysis was made pursuant  
21 to subsection (b)(4);

22       “(3) an analysis of the extent to which the  
23 requirements of the rule reflect regional differences,  
24 including economic, environmental, demographic, and  
25 land-use differences;

1       “(4) an analysis of the benefits and costs of the  
2 rule;

3       “(5) an explanation, where applicable, for the  
4 adoption of design standards rather than performance  
5 standards in the rule;

6       “(6)(A) an identification of any scientific,  
7 economic, or other technical report or study upon which  
8 the agency relied substantially in the rulemaking; and

9       “(B) a description of how the agency evaluated the  
10 quality, reliability, accuracy, and relevance of any  
11 such scientific or economic report or study; and

12       “(7) if the rule regulates activities which, before  
13 the issuance of the rule, were regulated only by State  
14 law, a statement of the legal authority for the agency  
15 to regulate such activities.

16 An agency may not issue a final major rule unless, where it  
17 is not expressly or by necessary implication inconsistent  
18 with the provisions of the statute pursuant to which the  
19 agency is promulgating the rule, the agency makes a  
20 reasonable determination, based upon the rulemaking file  
21 considered as a whole, that the benefits of the rule justify  
22 the costs of the rule, and that the rule will substantially  
23 achieve the rulemaking objectives in a more cost-effective  
24 manner than the alternatives described in the rulemaking,  
25 and includes that determination in the material issued

1 pursuant to this subsection.

2       “(d)(1) In lieu of preparing material required by  
3 subsection (b) or (c) of this section, an agency may  
4 incorporate by reference in any material that it issues  
5 pursuant to either such subsection information contained in  
6 any other statement or analysis, to the extent that such  
7 information satisfies any of the requirements of either such  
8 subsection.

9       “(2) Each agency shall include, in the notice of each  
10 proposed and final major rule, a statement of how the public  
11 may obtain copies of the material issued pursuant to  
12 subsections (b) and (c). An agency may charge a reasonable  
13 fee for the copying and mailing of such material. Such  
14 material shall be furnished without charge or at a reduced  
15 charge where the agency determines that waiver or reduction  
16 of the fee is primarily of benefit to the general public.

17       “(3) Subject to section 553(f)(2) of this title, each  
18 agency shall include in the rulemaking file required by  
19 section 553(f) of this title--

20               “(A) a copy of the material issued pursuant to  
21 subsections (b) and (c) of this section and of any  
22 transcript prepared pursuant to subsection (e) of this  
23 section; and

24               “(B) a copy of any scientific, economic, or other  
25 technical report or study that the agency actually

1 considered in connection with the rulemaking, if  
2 information in such report or study pertains directly to  
3 the rulemaking and was prepared by officers or employees  
4 of the agency or under contract with the agency.

5 "(4) Each agency shall send to the President a copy of  
6 all material issued pursuant to subsection (b) or (c) of  
7 this section.

8 "(e)(1) An agency shall, in the case of rulemaking to  
9 promulgate a major rule, provide an opportunity for oral  
10 presentation of views and information at informal public  
11 hearings. Transcripts shall be made of all such public  
12 hearings.

13 "(2) The agency shall permit cross-examination of  
14 individuals who present testimony, documents, or studies at  
15 such hearings but only to the extent the agency determines  
16 that other procedures would be inadequate for resolution by  
17 the agency of significant issues of fact upon which the rule  
18 is based. This paragraph shall not apply to any rulemaking  
19 for which cross-examination is otherwise required by  
20 statute.

21 "(3) The agency shall regulate the course of informal  
22 public hearings required by this subsection so as to ensure  
23 orderly and expeditious proceedings. The agency may take  
24 such actions as it considers necessary to achieve this  
25 objective, including--

1           “(A) limiting the time allowed for oral  
2 presentations and cross-examination;

3           “(B) establishing procedures designed to limit  
4 cross-examination to the significant issues of fact  
5 referred to in paragraph (2) of this subsection; and

6           “(C) designating representatives to make oral  
7 presentations or engage in cross-examination on behalf  
8 of persons with a common interest in the rulemaking.

9           “(f) An agency may delay complying with any requirement  
10 of this section with respect to a rule if--

11           “(A) the agency finds, for good cause, that  
12 complying with such requirement before making the rule  
13 effective would be impracticable, unnecessary, or  
14 contrary to the public interest; and

15           “(B) the agency publishes the rule in the Federal  
16 Register with a statement of such finding and a succinct  
17 explanation of the reasons therefor.

18 Unless such a rule will, by its terms, cease to be effective  
19 within two years after its effective date, the agency shall  
20 comply with the requirements of this section with respect to  
21 the rule as soon as reasonably practicable after  
22 promulgating the rule.

23           “(g) The requirements of this section do not change the  
24 standards applicable to agency action under any other  
25 provision of law or relieve an agency of procedural

1 requirements imposed by any other provision of law.

2 ``§623. Judicial review

3       ``(a) In any action for judicial review of a rule, any  
4 material issued under section 622 of this title may, to the  
5 extent relevant, be considered by the court in determining  
6 the lawfulness of the rule, but the court shall not have any  
7 authority to review agency compliance or noncompliance with  
8 the requirements of this subchapter or subchapter III or IV,  
9 or to compel any action by the agency promulgating the rule  
10 or to hold unlawful, set aside, or remand the rule on the  
11 ground that the agency has failed to comply with one or more  
12 of such requirements.

13       ``(b) Any exercise of authority granted under section  
14 621, 624, or 641 of this title, or any failure to exercise  
15 such authority, by the President or by an officer to whom  
16 such authority has been delegated, shall not be subject to  
17 judicial review in any manner.

18 ``§624. Executive oversight

19       ``(a) The President shall establish guidelines and  
20 procedures for agency implementation of the requirements of  
21 this chapter. The President shall monitor and review agency  
22 actions and materials for compliance with the provisions of  
23 this chapter and shall comment upon the adequacy of such  
24 compliance.

25       ``(b) Any guidelines and procedures established by the

1 President for agency implementation of this chapter shall be  
2 adopted after the public has been afforded notice and an  
3 opportunity to comment thereon, and shall be consistent with  
4 the prompt completion of rulemaking proceedings. Such  
5 guidelines and procedures may provide for review and  
6 evaluation by the President of material the agency intends  
7 that it will issue under sections 622(b) and 622(c) of this  
8 title in order to comment upon whether such material  
9 complies with the requirements of this chapter. The time  
10 for any such review shall not exceed thirty days following  
11 receipt of the material by the President, except that the  
12 President may extend the time for such review for one  
13 additional period not in excess of thirty days.

14       “(c) Nothing in this section--

15               “(1) provides authority to the President, or limits  
16 any authority that the President may possess under the  
17 Constitution or other provisions of law--

18                       “(A) to prevent an agency from proceeding with  
19 a rulemaking or issuing a proposed or final rule; or

20                       “(B) to require an agency to modify a proposed  
21 or final rule or comply with the guidelines or  
22 procedures established pursuant to subsection (a) of  
23 this section;

24               “(2) changes the standards applicable to agency  
25 action under any other provision of law or relieves an

1 agency of procedural requirements imposed by any other  
2 provision of law; or

3 "(3) relieves an agency of its responsibilities to  
4 comply with the requirements of this chapter.

5 "(d)(1) The President may delegate the authority  
6 granted by subsection (a) of this section, in whole or in  
7 part, to the Vice President or to an officer within the  
8 Executive Office of the President whose appointment has been  
9 subject to the advice and consent of the Senate. Notice of  
10 any such delegation, or any revocation or modification  
11 thereof, shall be published in the Federal Register.

12 "(2) Any person to whom authority is delegated under  
13 this subsection shall be subject to all of the provisions of  
14 this section applicable to the exercise of such authority by  
15 the President.

16 "§625. Review by Comptroller General

17 "(a) The Comptroller General of the United States may  
18 review the compliance by agencies with the provisions of  
19 this chapter.

20 "(b) Each agency shall make available to the  
21 Comptroller General, in accordance with section 716 of title  
22 31, United States Code, such information as the Comptroller  
23 General may request in order to carry out subsection (a).

24 "§626. Authority of agencies and the President

25 "(a) Nothing in this chapter--

1           “(1) limits agency jurisdiction to prescribe a  
2 rule,

3           “(2) relieves an agency of statutory requirements  
4 applicable to rulemaking, or

5           “(3) displaces rulemaking authority vested by  
6 statute in an agency.

7           “(b) Nothing in this chapter limits the exercise by the  
8 President of the authority and responsibility that he  
9 otherwise possesses under the Constitution and other laws of  
10 the United States.

11   “SUBCHAPTER III--ESTABLISHING AGENCY PRIORITIES AND  
12           SCHEDULES FOR COMPLETING PROCEDURES

13   “§631. Regulatory agenda

14           “(a) Each agency shall publish a regulatory agenda in  
15 the Federal Register in April and October of each year. Each  
16 such agenda shall contain a list of all rules that the  
17 agency expects to propose, promulgate, modify, repeal, or  
18 otherwise consider in a rulemaking proceeding in the  
19 succeeding twelve months. The agendas of all agencies shall  
20 be published in a single issue of the Federal Register in  
21 accordance with guidelines issued by the Director of the  
22 Office of Management and Budget to ensure a useful, uniform,  
23 and consistent publication.

24           “(b) With respect to each rule listed on a regulatory  
25 agenda, the agenda shall include a description of the rule;

1 the objectives of and the legal basis for the rule; any  
2 dates established or anticipated by the agency for taking  
3 action, including dates for advance notices of proposed  
4 rulemaking, notices of proposed rulemaking, and final agency  
5 action; a statement of the sectors of the economy likely to  
6 be affected by the rule; and the agency's assessment of  
7 whether the rule is or is expected to be a major rule. If  
8 consistent with any guidelines issued by the Office of  
9 Management and Budget, an agency may consider a group of  
10 closely related rules as one rule for the purpose of  
11 providing the information required by this subsection.

12       “(c) Each regulatory agenda shall include a list of  
13 rules scheduled to be reviewed in accordance with section  
14 641 of this title during the succeeding twelve months and  
15 the status of all rules listed on the previous agenda for  
16 which rulemaking proceedings have not been completed or  
17 which have not been explicitly withdrawn from consideration  
18 by the agency.

19       “(d) Each regulatory agenda shall include the name,  
20 address, and telephone number of an agency official  
21 responsible for handling inquiries about each rule listed on  
22 the agenda.

23       “(e) Failure of an agency to include a rule in a  
24 regulatory agenda shall not preclude the agency from  
25 proposing or issuing that rule.

## 1           ``SUBCHAPTER IV--AGENCY REVIEW OF RULES

## 2    ``S641. Review of rules

3           ``(a)(1) Not later than nine months after the effective  
4 date of this section, each agency shall prepare and publish  
5 in the Federal Register for comment a proposed schedule for  
6 the review, in accordance with this section, of each rule of  
7 the agency which is in effect on such effective date and  
8 which, if adopted on such effective date, would be a major  
9 rule under section 621(a)(6)(A) of this title, and of such  
10 other rules as the agency has selected for review.

11          ``(2) At least ninety days before publishing in the  
12 Federal Register, the proposed schedule required by paragraph  
13 (1), each agency shall make the proposed schedule available  
14 to the President. The President may select for review under  
15 this section any additional rule that the President  
16 determines to be a major rule under section 621(a)(5)(A) of  
17 this title. The President may not delegate the authority  
18 conferred by this paragraph.

19          ``(3) Each rule referred to in paragraphs (1) and (2) of  
20 this subsection shall cease to be effective not more than  
21 ten years after the date on which the final schedule is  
22 published pursuant to paragraph (5) of this subsection.

23          ``(4) Each proposed schedule required by paragraph (1)  
24 shall include a brief explanation of the reasons the agency  
25 or the President, as the case may be, considers each rule on

1 the schedule to be a major rule or of the reasons why the  
2 agency selected the rule for review, the date on which the  
3 rule shall cease to be effective, and the date set by the  
4 agency for the completion of the review of each such rule.  
5 The agency shall set a date to initiate review of each rule  
6 on the schedule in a manner which will ensure the  
7 simultaneous review of related items and which will achieve  
8 a reasonable distribution of reviews over the period of time  
9 covered by the schedule.

10       “(5) Not later than six months after publishing the  
11 proposed schedule as required by paragraph (1) of this  
12 subsection, each agency shall publish in the Federal  
13 Register a final schedule for the review of the rules  
14 referred to in paragraphs (1) and (2) of this subsection.  
15 The final schedule shall include the date on which each such  
16 rule shall cease to be effective. Each agency shall publish  
17 with the final schedule the response of the agency to  
18 comments received concerning the proposed schedule.

19       “(6) Each agency shall include with the publication in  
20 the Federal Register of a major rule a date for completion  
21 of the review of the major rule. Each such major rule shall  
22 cease to be effective not more than ten years after the date  
23 of such publication. The agency shall include with such  
24 publication the date on which the rule shall cease to be  
25 effective.

1       “(b) The agency shall, pursuant to subsections (c)  
2 through (e) of this section, review each rule on the final  
3 schedule.

4       “(c) An agency shall publish notice in the Federal  
5 Register of the initiation of the review of a rule under  
6 this section. The notice shall include--

7           “(1) an identification of the legal authority under  
8 which the rule was promulgated and a determination by  
9 the agency of whether the rule presently fulfills the  
10 objectives of that authority;

11          “(2) a brief summary of the benefits and costs of  
12 the rule during the calendar year preceding the  
13 publication of such notice, and of the benefits and  
14 costs the agency projects for the rule if it remains in  
15 effect;

16          “(3) an analysis of whether the objectives of the  
17 rule can be met through an alternative having lower  
18 economic costs than the existing rule;

19          “(4) an analysis of whether greater benefits can be  
20 achieved through an alternative having costs which are  
21 comparable to those of the existing rule;

22          “(5) a description of any problems encountered by  
23 the agency in obtaining compliance with the rule;

24          “(6) an analysis of the extent to which the rule  
25 overlaps or duplicates other rules; and

1           “(7) a statement that the agency seeks comments  
2           from the public as to whether the rule should be  
3           retained, amended, or repealed.

4           An agency may include a group of closely related rules in a  
5           single notice under this subsection.

6           “(d) After publishing the notice required by subsection  
7           (c) of this section, the agency shall provide a period of  
8           not less than sixty days during which the public may submit  
9           comments in response to such notice.

10          “(e) Within one hundred and eighty days after the close  
11          of the comment period required by subsection (c) of this  
12          section, the agency shall take one of the following two  
13          actions:

14                 “(1) The agency shall publish a notice of proposed  
15                 rulemaking to reissue the rule or to amend the rule and  
16                 shall conduct a rulemaking proceeding with respect to  
17                 the rule in accordance with the requirements of this  
18                 chapter, if applicable, and of section 553 of this title  
19                 or any other applicable law. Such requirements and other  
20                 applicable requirements of law, including those relating  
21                 to judicial review, shall apply to the same extent and  
22                 in the same manner as in the case of a proposed agency  
23                 action to issue or amend a rule which is not taken  
24                 pursuant to the review required by this section.

25                 “(2) The agency shall publish a notice of its

1 decision to allow the existing rule to expire, together  
2 with a statement explaining the reasons for that  
3 decision.

4 Any major rule which an agency determines to reissue or  
5 amend pursuant to paragraph (1) of this subsection shall be  
6 submitted to the Congress in accordance with the provisions  
7 of section 802 of this title in adequate time for review and  
8 approval by the Congress, in accordance with chapter 8 of  
9 this title, before the date on which the rule shall cease to  
10 be effective.

11 "(f) An agency may, with the concurrence of the  
12 President, alter the timing of review of rules under this  
13 section if an explanation of such alteration is published in  
14 the Federal Register at the time such alteration is made.  
15 The President may direct an agency to alter the timing of  
16 the review of rules under this section, except that the  
17 President may not increase the number of rules to be  
18 reviewed by one agency in any calendar year."

19 (d) The chapter heading of chapter 6 of title 5, United  
20 States Code, is amended to read as follows:

21 "CHAPTER 6--PLANNING AND MANAGEMENT OF AGENCY FUNCTIONS".

22 (e) The chapter analysis of part I of title 5, United  
23 States Code, is amended by inserting after the item relating  
24 to chapter 5 the following new item:

"6. Planning and Management of

601".

## Agency Functions

## Rulemaking procedures

1  
2       Sec. 102. Section 553 of title 5, United States Code, is  
3 amended to read as follows:

## 4    `§553. Rulemaking

5       ` (a) This section applies according to the provisions  
6 thereof, except to the extent that there is involved--

7           ` (1) a military or foreign affairs function of the  
8 United States;

9           ` (2) a matter relating to public property or  
10 contracts or to agency management or personnel  
11 practices; or

12           ` (3) any interpretative rule or general statement  
13 of policy unless such rule or statement has general  
14 applicability and substantially alters or creates rights  
15 or obligations of persons outside the agency.

16       ` (b)(1) Notice of proposed rulemaking shall be  
17 published in the Federal Register, unless persons subject to  
18 the proposed rule are named and either personally served or  
19 otherwise have actual notice of the rulemaking in accordance  
20 with law. Each notice of proposed rulemaking shall include--

21           ` (A) a statement of the time during which public  
22 comments will be received concerning the proposed rule,  
23 and the time, place, and nature of any informal public  
24 hearings to be held concerning the proposed rule;

1           “(B) a statement of the specific objectives to be  
2 attained by the proposed rule;

3           “(C) a statement of the specific legal authority  
4 under which the rule is proposed;

5           “(D) either the terms or substance of the proposed  
6 rule or a description of the subjects and issues  
7 involved;

8           “(E) a statement that the agency seeks proposals  
9 from the public for alternative methods to accomplish  
10 the objectives of the proposed rule that are more  
11 effective or less burdensome than the methods used in  
12 the proposed rule; and

13           “(F) a statement of where the file of the  
14 rulemaking proceeding required by subsection (f) of this  
15 section may be inspected or copies of the file may be  
16 obtained.

17           “(2) Except when notice or hearing is required by  
18 statute, this subsection and subsection (c) do not apply to  
19 rules of agency organization, procedure, or practice, or a  
20 rule to the extent the agency for good cause finds that  
21 notice and public procedure with respect to the rule are  
22 impracticable, unnecessary, or contrary to the public  
23 interest and publishes, at the time of publication of the  
24 final rule, such finding and a brief statement of the  
25 reasons therefor.

1       “(c)(1) An agency shall provide a public comment period  
2 of at least sixty days after the issuance of a notice of  
3 proposed rulemaking pursuant to subsection (b). During the  
4 public comment period, the agency shall give interested  
5 persons an opportunity to participate in the rulemaking  
6 through submission of written data, views, or arguments with  
7 or without opportunity for oral presentations. After the  
8 consideration of the relevant matter presented, the agency  
9 shall publish any rule adopted with a concise general  
10 statement of the basis and purpose of the rule. The  
11 statement shall include a response to the significant issues  
12 raised by the comments concerning the proposed rule received  
13 by the agency during the public comment period. When rules  
14 are required by statute to be made on the record after an  
15 opportunity for an agency hearing, sections 556 and 557 of  
16 this title apply instead of this subsection.

17       “(2) In promulgating a rule, unless otherwise permitted  
18 by law, an agency may not rely substantially on any report,  
19 study, or other document containing significant factual  
20 material of central relevance to the rulemaking that was not  
21 placed in the rulemaking file at the time the notice of  
22 proposed rulemaking was issued or, if publicly available,  
23 identified in such notice, unless--

24               “(A) the public has had an adequate opportunity to  
25 comment upon such report, study, or other document if it

1 was developed by or under contract with the agency; or

2 "(B) such report, study, or other document, if not  
3 developed by or under contract with the agency, was  
4 placed in the rulemaking file required by subsection (f)  
5 of this section promptly after--

6 "(1) its receipt by the agency, in the case of  
7 material received by the agency in the course of the  
8 rulemaking proceeding, or

9 "(ii) its review by the agency, in the case of  
10 material that was obtained by the agency outside the  
11 course of the rulemaking proceeding.

12 For purposes of subparagraph (A) of this paragraph, an  
13 agency shall be deemed to have afforded an adequate  
14 opportunity to comment on any document received during or  
15 after the initial comment period if it provides an  
16 additional comment period of twenty-one days from the date  
17 on which notice of such additional comment period is  
18 published in the Federal Register.

19 "(d) An agency issuing a final rule shall publish that  
20 rule in the Federal Register, unless persons subject to the  
21 rule are named and either personally served or otherwise  
22 have actual notice of the rule in accordance with law. Such  
23 publication or service shall be made not less than thirty  
24 days before the effective date of the final rule, except in  
25 the case of a rule that grants or recognizes an exemption or

1 relieves a restriction, or as otherwise provided by the  
2 agency for good cause found and published with the rule.

3       “(e) Each agency shall give an interested person the  
4 right to petition for the issuance, amendment, or repeal of  
5 a rule.

6       “(f)(1) Except as provided in paragraph (2) of this  
7 subsection, each agency shall maintain a file of each  
8 rulemaking proceeding conducted pursuant to this section,  
9 beginning no later than the date on which the agency issues  
10 the notice of proposed rulemaking for that proceeding  
11 pursuant to subsection (b) or, if the agency is not required  
12 to issue such a notice, no later than the date the agency  
13 first issues or receives material required to be included in  
14 the file. The file shall be made available to the public and  
15 shall include--

16           “(A) the notice of proposed rulemaking and any  
17 supplemental notice concerning the rulemaking;

18           “(B) a copy of all written comments on the proposed  
19 rule which were submitted to the agency after the  
20 publication of the notice of proposed rulemaking;

21           “(C) all material which the agency by statute or  
22 rule is required to issue in connection with the  
23 rulemaking or which the agency decides to make part of  
24 the record;

25           “(D) a copy of all written material pertaining to

1 the rule, including any drafts of the proposed or final  
2 rule, submitted by the agency to the President or the  
3 designee directed by the President to review proposed or  
4 final rules for their regulatory impact; and

5 "(E) a written explanation of the specific reasons  
6 for any significant changes made by the agency in the  
7 drafts of the proposed or final rule which respond to  
8 any comment received by the agency on the draft  
9 proposed, proposed draft final, or final rule, made by  
10 the President or the designee directed by the President  
11 to review proposed or final rules for their regulatory  
12 impact.

13 "(2) The file required by paragraph (1) of this  
14 subsection need not include any material described in  
15 section 552(b) of this title. If the agency is permitted by  
16 law to rely on, and does rely on, such material in  
17 promulgating a rule, the agency shall include in such file a  
18 statement noting the existence of any such material and the  
19 statutory basis upon which the material is exempt from  
20 public disclosure. Notwithstanding the preceding sentence,  
21 the file shall include all material described in  
22 subparagraph (D) or (E) of paragraph (1).

23 "(3) No court shall hold unlawful or set aside an  
24 agency rule because of a violation of subparagraph (D) or  
25 (E) of paragraph (1) of this subsection unless the court

1 finds that such violation has precluded fair public  
2 consideration of a material issue of the rulemaking taken as  
3 a whole. Judicial review of compliance or noncompliance  
4 with subparagraphs (D) and (E) of paragraph (1) of this  
5 subsection shall be limited to review of action or inaction  
6 on the part of an agency.''.  
7

#### Judicial review

8 Sec. 103. Section 706 of title 5, United States Code, is  
9 amended to read as follows:

#### 10 ``5706. Scope of review

11 `` (a) To the extent necessary to decision and when  
12 presented, the reviewing court shall independently decide  
13 all relevant questions of law, interpret constitutional and  
14 statutory provisions, and determine the meaning or  
15 applicability of the terms of an agency action. The  
16 reviewing court shall--

17 `` (1) compel agency action unlawfully withheld or  
18 unreasonably delayed; and

19 `` (2) hold unlawful and set aside agency action,  
20 findings, and conclusions found to be--

21 `` (A) arbitrary, capricious, an abuse of  
22 discretion, or otherwise not in accordance with law;

23 `` (B) contrary to constitutional right, power,  
24 privilege, or immunity;

25 `` (C) in excess of statutory jurisdiction,

1 of this section, the court shall determine whether the  
2 agency's action is within the scope of the agency's  
3 jurisdiction on the basis of the language of the statute or,  
4 in the event of ambiguity, other indicia of ascertainable  
5 legislative intent.

6 "(d) In determining whether agency action in adopting a  
7 rule, other than a rule to which subsection (a)(2)(E) of  
8 this section applies, is arbitrary, capricious, an abuse of  
9 discretion, or otherwise not in accordance with law, the  
10 court shall consider whether there is substantial support in  
11 the rulemaking file, viewed as a whole, for determinations  
12 of fact on which the agency was required to rely in adopting  
13 the rule or which the agency asserted as the basis for the  
14 rule."

15 Appeals of agency orders

16 Sec. 104. (a) Section 2112(a) of title 28, United States  
17 Code, is amended by striking out the last three sentences  
18 and inserting in lieu thereof the following: "If  
19 proceedings are instituted in two or more courts of appeals  
20 with respect to the same order, the court in which the  
21 agency, board, commission, or officer concerned is to file  
22 the record shall be determined as follows:

23 "(1) If within ten days after issuance of the order  
24 the agency, board, commission, or officer receives  
25 written notice, in a manner that the agency shall

1 prescribe by rule, that proceedings have been instituted  
2 in two or more courts of appeals, the agency, board,  
3 commission, or officer shall, promptly after the  
4 expiration of that ten-day period, so inform the  
5 Administrative Office of the United States Courts and  
6 shall identify each such court in which such proceedings  
7 are pending. As soon as is practicable after receiving  
8 such notice, the Administrative Office of the United  
9 States Courts shall designate one court, according to a  
10 system of random selection, from among those identified  
11 by the agency, board, commission, or officer, and the  
12 record shall be filed in the court so designated.

13       “(2) If within ten days after issuance of the order  
14 the agency, board, commission, or officer has received  
15 written notice, as provided in the rules prescribed  
16 pursuant to paragraph (1) of this subsection, that  
17 proceedings have been instituted in only one court of  
18 appeals, the record shall be filed in that court  
19 notwithstanding the institution of any proceedings in  
20 any other court of which such written notice was not  
21 received by the agency, board, commission, or officer  
22 within that ten-day period.

23       “(3) In all other cases, the record shall be filed  
24 in the court in which proceedings with respect to the  
25 order were first instituted.

1 All courts in which proceedings have been instituted with  
2 respect to the same order, other than the court in which the  
3 record is filed pursuant to this subsection, shall transfer  
4 those proceedings to the court in which the record is so  
5 filed. For the convenience of the parties in the interest of  
6 justice, the court in which the record is filed may  
7 thereafter transfer all the proceedings with respect to that  
8 order to any other court of appeals. Until the record  
9 concerning an order is filed in a court pursuant to this  
10 subsection, any court of appeals in which proceedings with  
11 respect to that order have been instituted within ten days  
12 after the issuance of such order may, to the extent  
13 authorized by law, postpone the effective date of the order  
14 as necessary to permit the designation of a court pursuant  
15 to paragraph (1) of this subsection. Such action by the  
16 court may thereafter be modified, revoked, or extended by  
17 the court in which the record is filed or by any other court  
18 of appeals to which the proceedings are transferred.".

19 (c) Section 604(a) of title 28, United States Code, is  
20 amended by redesignating paragraph (17) as paragraph (18)  
21 and by inserting immediately after paragraph (15) the  
22 following new paragraph:

23 "(17) Where proceedings with respect to an order of  
24 any agency, board, commission, or officer have been  
25 instituted in two or more courts of appeals and the

1 agency, board, commission, or officer, pursuant to  
2 section 2112(a)(1) of this title, has been notified of  
3 such proceedings within ten days after issuance of the  
4 order, administer a system of random selection to  
5 determine the appropriate court in which the record is  
6 to be filed;''.

7 Participation expenses

8 Sec. 105. (a) Subchapter I of chapter 5 of title 5,  
9 United States Code, is amended by adding at the end thereof  
10 the following new section:

11 ``§505. Participation expenses

12 ``(a) No agency may, except as provided in section 504  
13 of this title or unless specifically authorized by any other  
14 statute, provide financial assistance to pay the expenses of  
15 persons participating or intervening in an agency  
16 proceeding.

17 ``(b) For the purposes of this section--

18 ``(1) 'agency' means an agency as defined in section  
19 551(1) of this title; and

20 ``(2) 'agency proceeding' means any agency  
21 proceedings as defined in section 551(12) of this  
22 title.''.

23 (b) The section analysis of chapter 5 of title 5, United  
24 States Code, is amended by inserting after the item relating  
25 to section 504 the following new item:

``505. Participation expenses.''.

1                   Technical and conforming amendments

2           Sec. 106. (a) Section 551(4) of title 5, United States  
3 Code, is amended by striking out ``services or allowances  
4 therefor or of valuations, costs, or accounting, or  
5 practices bearing on any of the foregoing'' and inserting in  
6 lieu thereof ``services, or allowances therefor or of  
7 valuations, costs or accounting, or practices relating to  
8 such rates, wages, structures or reorganizations, prices,  
9 facilities, appliances, services, or allowances''.

10           (b) Section 551(5) of such title is amended by striking  
11 out ``rule making'' and inserting in lieu thereof  
12 ``rulemaking''.

13           (c) Section 556(d) of such title is amended in the last  
14 sentence by striking out ``rule making'' and inserting in  
15 lieu thereof ``rulemaking''.

16           (d) Section 557(b) of such title is amended by striking  
17 out ``rule making'' and inserting in lieu thereof  
18 ``rulemaking''.

19           (e) The item relating to section 553 of title 5, United  
20 States Code, in the section analysis of chapter 5 of such  
21 title is amended by striking out ``Rule making'' and  
22 inserting in lieu thereof ``Rulemaking''.

23                   TITLE II--CONGRESSIONAL REVIEW OF AGENCY RULES

24           Sec. 201. (a) Part I of title 5 of the United States

1 code is amended by inserting after chapter 7 the following  
2 new chapter:

3     "CHAPTER 8--CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

   "Sec.

   "801. Definitions.

   "802. Congressional review of agency rules.

   "803. Procedure for committee consideration of resolutions.

   "804. Procedure for floor consideration of resolutions.

   "805. Computation of calendar days of continuous session.

   "806. Rulemaking power of Congress.

   "807. Effect on judicial review.

4     "§801. Definitions

5         "(a) For purposes of this chapter--

6             "(1) the term 'agency' means an agency as defined  
7 in section 551(1) of this title;

8             "(2) the term 'rule' means a rule as defined in  
9 section 621(5) of this title which is subject to section  
10 553 of this title;

11             "(3) the term 'major rule' means a major rule  
12 within the meaning of section 621 of this title;

13             "(4) the term 'emergency rule' means a rule which  
14 an agency may make effective, for a period of not more  
15 than 210 days, notwithstanding any requirement for  
16 public notice and comment and is promulgated pursuant to  
17 a finding by the agency that delay in the effective date  
18 would--

19                 "(A) seriously injure an important public  
20 interest,

1           “(B) substantially frustrate legislative  
2 policies, or

3           “(C) seriously harm a person or class of  
4 persons without serving any important public  
5 interest;

6           “(5) the term ‘promulgate’ or ‘promulgation’ means  
7 to file or the filing of a final rule with the Office of  
8 the Federal Register for publication;

9           “(6) the term ‘appropriate committee’ means--

10           “(A) the one committee of each House of  
11 congress which has primary legislative jurisdiction  
12 over the statute under which a rule is promulgated  
13 or over the agency which has promulgated a rule, or

14           “(B) if the presiding officer of the Senate or  
15 the House of Representatives determines that there  
16 is more than one standing committee of primary  
17 jurisdiction described in subparagraph (A), a  
18 special ad hoc committee, appointed by such  
19 presiding officer, with the approval of the Senate  
20 or the House, as the case may be, from the  
21 membership of such committees of primary  
22 jurisdiction;

23           “(7) the term ‘appropriate resolution’ means--

24           “(A) in the case of a major rule, a joint  
25 resolution approving the rule, the matter after the

1 resolving clause of which is as follows: 'That the  
2 Congress approves the rule entitled \_\_\_\_\_,  
3 transmitted to the Congress by \_\_\_\_\_ on  
4 \_\_\_\_\_, 19\_\_, and which shall cease to be  
5 effective on \_\_\_\_\_, 19\_\_.' with the  
6 appropriate title of the rule, agency, date of  
7 transmittal, and date of termination inserted in the  
8 blanks, respectively; and

9 '(B) in the case of any other rule subject to  
10 section 802 of this title, a joint resolution  
11 disapproving the rule, the matter after the  
12 resolving clause of which is as follows: 'That the  
13 Congress disapproves the rule entitled  
14 \_\_\_\_\_, transmitted to the Congress by  
15 \_\_\_\_\_, on \_\_\_\_\_, 19\_\_.' with  
16 the appropriate title of the rule, agency, and date  
17 inserted in the blanks, respectively; and

18 '(8) the term 'transmitted to the Congress', with  
19 respect to a rule, means transmitted to the Congress  
20 pursuant to section 802(a)(1) of this title.

21 ''§802. Congressional review of agency rules

22 '(a)(1) on the first day on which both Houses of  
23 Congress are in session after the promulgation of a rule,  
24 the agency shall transmit a copy of the rule to the  
25 Secretary of the Senate and the clerk of the House of

1 Representatives. Such rule shall be considered only as a  
2 recommendation of the agency to the Congress and shall have  
3 no force and effect as a rule unless the rule has become  
4 effective in accordance with this section.

5       “(2) A major rule may not take effect unless an  
6 appropriate resolution is enacted within 90 days after the  
7 date on which the major rule is transmitted to the Congress.

8       “(3)(A) Subject to subparagraph (B), a rule other than  
9 a major rule may not take effect if within 90 days after the  
10 rule is transmitted to the Congress an appropriate  
11 resolution is enacted with respect to the rule.

12       “(B) A rule other than a major rule may take effect--

13           “(i) at the end of the period of 60 days after the  
14 date the rule is transmitted to the Congress if neither  
15 House of Congress has completed action on an appropriate  
16 resolution with respect to the rule;

17           “(ii) upon the rejection by one House of an  
18 appropriate resolution with respect to the rule; or

19           “(iii) on such later date as the rule may specify.

20       “(D)(1) An agency may not promulgate a new rule  
21 substantially the same as--

22           “(A) a major rule for which an appropriate  
23 resolution has not been enacted; or

24           “(B) any other rule subject to this section for  
25 which an appropriate resolution has been enacted.

1       “(2) If a rule of an agency does not become effective  
2 under subsection (a) and the agency, subject to paragraph  
3 (1), promulgates a rule which relates to the same subject  
4 matter as the disapproved rule, such rule may be based in  
5 whole or in part on the rulemaking record of the first rule.  
6 The new rule shall be subject to subsection (a).

7       “(c) If a rule which was promulgated subject to a  
8 statutory time limit for rulemaking does not become  
9 effective under subsection (a), the statutory time limit  
10 shall apply also to the rulemaking begun as a result of the  
11 disapproval of the rule but shall begin on the date on which  
12 the rule was precluded from becoming effective under  
13 subsection (a).

14       “(d)(1) On the same day on which an agency transmits a  
15 rule to the Congress pursuant to this section, that agency  
16 shall transmit a copy of the rule to the Comptroller General  
17 of the United States.

18       “(2) In order to assist the Congress in the exercise of  
19 its functions under this chapter, the Comptroller General  
20 may, on his own initiative, or shall, upon the request of an  
21 appropriate committee, inform such committee as promptly as  
22 practicable as to whether the Comptroller General considers  
23 the rule to be consistent with the statutory authority under  
24 which the rule was promulgated.

25       “(e) The provisions of paragraphs (2), (3), and (4) of

1 subsection (a) shall not apply with respect to an emergency  
2 rule if the agency submits to the appropriate committees a  
3 written notice of its determination that the rule is an  
4 emergency rule and of the period of time during which the  
5 rule will be effective, and of its intention to issue a  
6 final rule to take effect when the emergency rule expires,  
7 if the agency determines such a final rule is necessary. Any  
8 such final rule shall be subject to all the provisions of  
9 subsection (a).

10 ``§803. Procedure for committee consideration of resolutions

11 `` (a)(1) With respect to a major rule, the chairman of  
12 the appropriate committee to which it has been referred, or  
13 a Member designated by the chairman, shall introduce an  
14 appropriate resolution (by request) no later than the first  
15 day of the session following the day on which the rule is  
16 transmitted to the Congress, and the resolution shall be  
17 referred to the appropriate committee.

18 `` (2) The appropriate committee to which an appropriate  
19 resolution with respect to a major rule is referred shall  
20 undertake a review of the rule and report the resolution,  
21 together with its recommendations, to the House involved not  
22 later than 45 days after the date on which the rule is  
23 transmitted to the Congress.

24 `` (3) If the appropriate committee to which an  
25 appropriate resolution with respect to a major rule is

1 referred pursuant to paragraph (1) has not reported the  
2 resolution at the end of 45 days after the rule is  
3 transmitted to the Congress, the committee shall be deemed  
4 to be discharged from further consideration of the  
5 resolution, and the resolution shall be placed on the  
6 appropriate calendar of the House involved.

7       “(b)(1) An appropriate resolution with respect to any  
8 rule other than a major rule shall be referred to the  
9 appropriate committee.

10       “(2) It shall be in order to present to the Secretary  
11 of the Senate or the Clerk of the House in writing a motion  
12 for consideration of an appropriate resolution with respect  
13 to a rule other than a major rule at any time after the  
14 introduction of the resolution but not later than 25 days  
15 after the rule is transmitted to the Congress.

16       “(3) If a motion for consideration described in  
17 paragraph (2) is signed by 25 Members of the Senate or 109  
18 Members of the House, as the case may be, not later than 30  
19 days after the rule involved is transmitted to the Congress,  
20 the motion shall be entered on the Journal, printed with the  
21 signatures thereto in the Congressional Record, and the  
22 Secretary of the Senate or the Clerk of the House shall  
23 notify the appropriate committee of the motion. The  
24 appropriate committee shall then undertake a review of the  
25 rule and report the appropriate resolution to which the

1 motion relates, together with its recommendations, not later  
2 than 45 days after the rule is transmitted to the Congress.

3       “(4) If the appropriate committee has not reported the  
4 appropriate resolution at the end of that period of 45 days,  
5 pursuant to paragraph (3), then the committee shall be  
6 deemed to be discharged from further consideration of the  
7 resolution and the resolution shall be placed on the  
8 appropriate calendar of the House involved.

9       “(5) An appropriate committee may review any rule  
10 referred to it and may report any appropriate resolution  
11 referred to it not later than 45 days after the rule which  
12 is the subject of the resolution is transmitted to the  
13 Congress, and the resolution shall be referred to the  
14 appropriate calendar of the House involved.

15       “(c) Whenever a committee reports an appropriate  
16 resolution pursuant to this chapter, the resolution shall be  
17 accompanied by a committee report which shall include the  
18 text of the rule, together with the agency's explanation of  
19 the rule and the committee's reasons for recommending the  
20 adoption or rejection of the resolution.

21       “§804. Procedure for floor consideration of resolutions

22       “(a)(1) When a committee of the Senate has reported or  
23 has been discharged from the further consideration of an  
24 appropriate resolution, it shall be in order at any time  
25 thereafter (even though a previous motion to the same effect

1 has been disagreed to) to move to proceed to the  
2 consideration of the resolution.

3       “(2) When a committee of the House has reported or has  
4 been discharged from the further consideration of an  
5 appropriate resolution, the appropriate calendar on which  
6 the resolution is placed shall be the Regulatory Review  
7 Calendar in accordance with clause 1 of rule XIII of the  
8 Rules of the House of Representatives.

9       “(b)(1) Any motion in the Senate to proceed to the  
10 consideration of an appropriate resolution is privileged and  
11 is not debatable. The motion shall not be subject to any  
12 intervening motion except a motion to lay on the table. An  
13 amendment to the motion is not in order, and it is not in  
14 order to reconsider the vote by which the motion is agreed  
15 to or disagreed to.

16       “(2) Any motion in the House of Representatives to  
17 proceed to the consideration of an appropriate resolution is  
18 privileged but may only be made on days designated in clause  
19 9 of rule XXIV of the Rules of the House and in accordance  
20 with procedures prescribed by that clause.

21       “(c) Debate on an appropriate resolution with respect  
22 to a major rule shall be limited to not more than two hours,  
23 and with respect to any rule other than a major rule shall  
24 be limited to not more than one hour, to be equally divided  
25 between the proponents and opponents of the resolution. A

1 motion to further limit debate is not debatable. An  
2 amendment to or a motion to recommit the resolution is not  
3 in order and it is not in order to move to reconsider the  
4 vote by which the resolution is agreed to or disagreed to.

5       “(d)(1) If, before the passage by one House of an  
6 appropriate resolution of that House with respect to a rule,  
7 that House receives an appropriate resolution with respect  
8 to the same rule from the other House, then--

9           “(A) at the end of the period of 75 days after the  
10 rule was transmitted to the Congress pursuant to section  
11 802(a) of this title--

12           “(i) if the appropriate resolution from the  
13 other House has been referred to the appropriate  
14 committee and that committee has not reported or been  
15 discharged from further consideration of that  
16 resolution or another appropriate resolution with  
17 respect to the same rule, that committee shall be  
18 deemed to discharged from further consideration of  
19 the resolution of the other House and the resolution  
20 shall be placed on the appropriate calendar of the  
21 House involved; or

22           “(ii) if the appropriate resolution from the  
23 other House has not been referred to the appropriate  
24 committee, the resolution shall be placed on the  
25 appropriate calendar of the House involved; and

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

3           “(2) Except as provided in paragraph (1), it shall not  
4           be in order to consider more than one appropriate resolution  
5           with respect to the same rule in the same Congress, except  
6           that this paragraph shall not prohibit the consideration in  
7           one House of an appropriate resolution from the other House  
8           if the House receiving it has already passed an appropriate  
9           resolution introduced in that House with respect to the same  
10          rule.

11        “§805. Computation of calendar days of continuous session

12          “(a) For purposes of this chapter--

13           “(1) ‘days’ means only days of continuous session  
14           of Congress;

15           “(2) the days on which either House of Congress is  
16           not in session because of an adjournment of more than  
17           three days are excluded in the computation of days of  
18           continuous session; and

19           “(3) the days occurring during the period beginning  
20           on the date on which an appropriate resolution is  
21           adopted by the Congress and ending either on the date on  
22           which the resolution is approved by the President, or,  
23           if the resolution is disapproved by the President, on  
24           the date on which the resolution is returned to the  
25           Congress with the President’s disapproval, are excluded

1 in the computation of days of continuous session.

2 "(b) If an adjournment sine die of a Congress occurs  
3 after an agency has submitted a rule under section 802 of  
4 this title and before the expiration of the applicable  
5 period specified in such section, the agency shall--

6 "(1) resubmit the rule to the Congress; or

7 "(2) initiate rulemaking proceedings to amend or  
8 repeal such rule.

9 If the rule is resubmitted or an amended rule is submitted  
10 to the Congress, the periods specified in section 802 of  
11 this title shall begin on the date of such resubmission or  
12 submission.

13 "§806. Rulemaking power of Congress

14 "The provisions of sections 803 and 804 of this title  
15 are enacted by the Congress--

16 "(1) as an exercise of the rulemaking power of the  
17 Senate and the House of Representatives, respectively,  
18 and as such they are deemed a part of the rules of each  
19 House, respectively, but applicable only with respect to  
20 the procedure to be followed in that House in the case  
21 of resolutions described in section 802 of this title,  
22 and such provisions supersede other rules only to the  
23 extent that they are inconsistent with such other rules;  
24 and

25 "(2) with full recognition of the constitutional

1 right of either House of the Congress to change the  
 2 rules (so far as relating to the procedure of that  
 3 House) at any time, in the same manner and to the same  
 4 extent as in the case of any other rule of that House.

5 ``§807. Effect on judicial review

6 ``Congressional inaction on or rejection of an  
 7 appropriate resolution disapproving a rule shall not be  
 8 deemed an expression of approval of that rule.``

9 (b) The table of chapters for part I of title 5 is  
 10 amended by inserting immediately after the item relating to  
 11 chapter 7 the following:

``8. Congressional Review of Agency  
 Rulemaking.....801``.

12 (c) The provisions of chapter 8 of title 5, United  
 13 States Code, shall supersede any other provision of law  
 14 governing procedures for congressional review of agency  
 15 rules to the extent such other provisions are inconsistent  
 16 with such chapter.

17 TITLE III--REGULATORY OVERSIGHT AND CONTROL AMENDMENTS TO  
 18 HOUSE RULES

19 House Regulatory Review Calendar

20 Sec. 301. (a) Rule XIII of the Rules of the House of  
 21 Representatives is amended--

22 (1) in clause 1 by striking out ``three`` and  
 23 inserting in lieu thereof ``four``, and

1 (2) by adding at the end thereof the following:

2 "Fourth. A Regulatory Review Calendar, to which shall be  
3 referred all resolutions in accordance with the provisions  
4 of chapter 8 of title 5, United States Code."

5 (b) Rule XXIV of the Rules of the House of  
6 Representatives is amended by adding at the end thereof the  
7 following new clause:

8 "9. (a) On the first and third Monday and the second  
9 and fourth Tuesday of each month, immediately following the  
10 approval of the Journal, the Speaker shall direct the Clerk  
11 to call the resolutions on the Regulatory Review Calendar,  
12 and priority consideration shall be given to resolutions  
13 respecting any rule for which the review period in the House  
14 under section 802(a) of title 5, United States Code, will  
15 expire before the next calling of resolutions on the  
16 Calendar under this paragraph. It shall be in order on any  
17 such day to consider a motion to dispense with the further  
18 reading of the Calendar, and such motion shall not be  
19 subject to debate.

20 "(b) Upon the calling of a resolution on the Regulatory  
21 Review Calendar under paragraph (a), it shall be in order to  
22 move to proceed to the immediate consideration of the  
23 resolution. The motion is privileged and is not debatable,  
24 except in the case of a resolution discharged from a  
25 committee pursuant to a motion for consideration under



1 implementation of any agency rule subject to chapter 8 of  
2 title 5, United States Code (other than a major rule), for  
3 which an appropriate resolution has not been considered by  
4 the House, or has been passed by the House but has not been  
5 enacted, within the period of time specified in section  
6 802(a) of that title.".

7 House Committee Oversight Improvements

8 Sec. 303. (a) Clause 2(c) of Rule X of the Rules of the  
9 House of Representatives is amended to read as follows:

10 "(c)(1) Not later than March 1 in the first session of  
11 a Congress, each standing committee of the House shall, in a  
12 meeting which is open to the public and with a majority of  
13 members present, consider and adopt its oversight plans for  
14 that Congress.

15 "(2) In developing such oversight plans, each committee  
16 shall, to the maximum extent feasible--

17 "(A) consult with other committees of the House and  
18 the Senate which have jurisdiction over the same or  
19 related laws, programs, agencies, or regulatory  
20 activities within its jurisdiction with the objective of  
21 assuring that such laws, programs, agencies, and  
22 regulatory activities are reviewed in the same Congress  
23 and that there is maximum coordination and cooperation  
24 between such committees in the conduct of such review;  
25 and such plans shall include an explanation of what

1 steps have been or will be taken to assure such  
2 coordination and cooperation;

3 "(B) give priority consideration to including in  
4 its oversight plans the review of those laws, programs,  
5 agencies, or regulatory activities operating under  
6 permanent budget authority or permanent statutory  
7 authority; and

8 "(C) have a view toward ensuring that all  
9 significant laws, programs, agencies, and regulatory  
10 activities within its jurisdiction are subject to review  
11 at least once every ten years, with special attention to  
12 those major agency rules subject to review and  
13 termination during that Congress.

14 "(3) Immediately upon the adoption of its oversight  
15 plans, each committee shall submit these plans to the  
16 Committee on Government Operations.

17 "(4) Not later than March 15 in the first session of a  
18 Congress, after consultation with the Speaker, the majority  
19 leader, and the minority leader, the Committee on Government  
20 Operations shall report to the House the oversight plans  
21 submitted by each committee pursuant to this paragraph,  
22 together with any recommendation which the Committee on  
23 Government Operations may make, or the Speaker, majority  
24 leader, and minority leader may jointly make, to assure the  
25 most effective coordination of such plans and otherwise

1 achieve the objectives of this clause.''.

2 (b) Clause 2 of Rule X of the Rules of the House of  
3 Representatives is amended by adding at the end thereof the  
4 following new paragraph:

5 ''(e) The Speaker, with the approval of the House, may  
6 appoint special ad hoc oversight committees for the purpose  
7 of reviewing a specific matter within the jurisdiction of  
8 two or more standing committees of the House, such ad hoc  
9 committees to be appointed from the membership of such  
10 standing committees.''.  
11

12 (c) clause 1(d) of Rule XI of the Rules of the House of  
13 Representatives is amended to read as follows:

14 ''(d)(1) Each committee shall submit to the House of  
15 Representatives , not later than January 2 of each odd-  
16 numbered year, a report on the activities of that committee  
17 under this rule and Rule X during the congress ending at  
18 noon on January 3 of such year.

19 ''(2) Such report shall include separate sections  
20 summarizing the legislative and oversight activities of that  
21 committee during that Congress.

22 ''(3) The oversight section of such report shall include  
23 a summary of the oversight plans submitted by that committee  
24 pursuant to clause 2(c) of Rule X, a summary of the actions  
25 taken and recommendations made with respect to such plans,  
and a summary of any additional oversight activities

1 undertaken by that committee, and any recommendations made  
2 or actions taken thereon.''.  
3

4 (d) Clause 5(a) of Rule XI of the Rules of the House of  
5 Representatives is amended--

6 (1) by striking out ``(1)'' and ``(2)'' and  
7 inserting in lieu thereof ``(A)'' and ``(B)'',  
8 respectively;

9 (2) by inserting ``(1)'' after ``(a)''; and

10 (3) by adding at the end thereof the following:

11 ``(2) It shall not be in order in the House to consider  
12 a primary expense resolution for any committee which has not  
13 submitted its oversight plans to the Committee on Government  
Operations pursuant to clause 2(c) of Rule X.''.  
14