

AMENDMENT TO H.R. 3746

OFFERED BY MRS. BOEBERT OF COLORADO

Add at the end the following:

1 **DIVISION E—CONGRESSIONAL**
2 **REVIEW OF AGENCY RULE-**
3 **MAKING**

4 **SEC. 501. CONGRESSIONAL REVIEW OF AGENCY RULE-**
5 **MAKING.**

6 Chapter 8 of title 5, United States Code, is amended
7 to read as follows:

8 **“CHAPTER 8—CONGRESSIONAL REVIEW**
9 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

10 **“§ 801. Congressional review**

11 “(a)(1)(A) Before a rule may take effect, the Federal
12 agency promulgating such rule shall publish in the Federal
13 Register a list of information on which the rule is based,
14 including data, scientific and economic studies, and cost-
15 benefit analyses, and identify how the public can access
16 such information online, and shall submit to each House

1 of the Congress and to the Comptroller General a report
2 containing—

3 “(i) a copy of the rule;

4 “(ii) a concise general statement relating to the
5 rule;

6 “(iii) a classification of the rule as a major or
7 nonmajor rule, including an explanation of the clas-
8 sification specifically addressing each criteria for a
9 major rule contained within subparagraphs (A)
10 through (C) of section 804(2);

11 “(iv) a list of any other related regulatory ac-
12 tions intended to implement the same statutory pro-
13 vision or regulatory objective as well as the indi-
14 vidual and aggregate economic effects of those ac-
15 tions; and

16 “(v) the proposed effective date of the rule.

17 “(B) On the date of the submission of the report
18 under subparagraph (A), the Federal agency promulgating
19 the rule shall submit to the Comptroller General and make
20 available to each House of Congress—

21 “(i) a complete copy of the cost-benefit analysis
22 of the rule, if any, including an analysis of any jobs
23 added or lost, differentiating between public and pri-
24 vate sector jobs;

1 “(ii) the agency’s actions pursuant to sections
2 603, 604, 605, 607, and 609 of this title;

3 “(iii) the agency’s actions pursuant to sections
4 202, 203, 204, and 205 of the Unfunded Mandates
5 Reform Act of 1995; and

6 “(iv) any other relevant information or require-
7 ments under any other Act and any relevant Execu-
8 tive orders.

9 “(C) Upon receipt of a report submitted under sub-
10 paragraph (A), each House shall provide copies of the re-
11 port to the chairman and ranking member of each stand-
12 ing committee with jurisdiction under the rules of the
13 House of Representatives or the Senate to report a bill
14 to amend the provision of law under which the rule is
15 issued.

16 “(2)(A) The Comptroller General shall provide a re-
17 port on each major rule to the committees of jurisdiction
18 by the end of 15 calendar days after the submission or
19 publication date. The report of the Comptroller General
20 shall include an assessment of the agency’s compliance
21 with procedural steps required by paragraph (1)(B) and
22 an assessment of whether the major rule imposes any new
23 limits or mandates on private-sector activity.

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

4 “(3) A major rule relating to a report submitted
5 under paragraph (1) shall take effect upon enactment of
6 a joint resolution of approval described in section 802 or
7 as provided for in the rule following enactment of a joint
8 resolution of approval described in section 802, whichever
9 is later.

10 “(4) A nonmajor rule shall take effect as provided
11 by section 803 after submission to Congress under para-
12 graph (1).

13 “(5) If a joint resolution of approval relating to a
14 major rule is not enacted within the period provided in
15 subsection (b)(2), then a joint resolution of approval relat-
16 ing to the same rule may not be considered under this
17 chapter in the same Congress by either the House of Rep-
18 resentatives or the Senate.

19 “(b)(1) A major rule shall not take effect unless the
20 Congress enacts a joint resolution of approval described
21 under section 802.

22 “(2) If a joint resolution described in subsection (a)
23 is not enacted into law by the end of 70 session days or
24 legislative days, as applicable, beginning on the date on
25 which the report referred to in subsection (a)(1)(A) is re-

1 ceived by Congress (excluding days either House of Con-
2 gress is adjourned for more than 3 days during a session
3 of Congress), then the rule described in that resolution
4 shall be deemed not to be approved and such rule shall
5 not take effect.

6 “(c)(1) Notwithstanding any other provision of this
7 section (except subject to paragraph (3)), a major rule
8 may take effect for one 90-calendar-day period if the
9 President makes a determination under paragraph (2) and
10 submits written notice of such determination to the Con-
11 gress.

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

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

17 “(B) necessary for the enforcement of criminal
18 laws;

19 “(C) necessary for national security; or

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

22 “(3) An exercise by the President of the authority
23 under this subsection shall have no effect on the proce-
24 dures under section 802.

1 “(d)(1) In addition to the opportunity for review oth-
2 erwise provided under this chapter, in the case of any rule
3 for which a report was submitted in accordance with sub-
4 section (a)(1)(A) during the period beginning on the date
5 occurring—

6 “(A) in the case of the Senate, 60 session days;
7 or

8 “(B) in the case of the House of Representa-
9 tives, 60 legislative days,
10 before the date the Congress is scheduled to adjourn a
11 session of Congress through the date on which the same
12 or succeeding Congress first convenes its next session, sec-
13 tions 802 and 803 shall apply to such rule in the suc-
14 ceeding session of Congress.

15 “(2)(A) In applying sections 802 and 803 for pur-
16 poses of such additional review, a rule described under
17 paragraph (1) shall be treated as though—

18 “(i) such rule were published in the Federal
19 Register on—

20 “(I) in the case of the Senate, the 15th
21 session day; or

22 “(II) in the case of the House of Rep-
23 resentatives, the 15th legislative day,
24 after the succeeding session of Congress first con-
25 venes; and

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

3 “(B) Nothing in this paragraph shall be construed
4 to affect the requirement under subsection (a)(1) that a
5 report shall be submitted to Congress before a rule can
6 take effect.

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

10 **“§ 802. Congressional approval procedure for major**
11 **rules**

12 “(a)(1) For purposes of this section, the term ‘joint
13 resolution’ means only a joint resolution addressing a re-
14 port classifying a rule as major pursuant to section
15 801(a)(1)(A)(iii) that—

16 “(A) bears no preamble;

17 “(B) bears the following title (with blanks filled
18 as appropriate): ‘Approving the rule submitted by
19 _____ relating to _____.’;

20 “(C) includes after its resolving clause only the
21 following (with blanks filled as appropriate): ‘That
22 Congress approves the rule submitted by _____ re-
23 lating to _____.’; and

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

1 “(2) After a House of Congress receives a report
2 classifying a rule as major pursuant to section
3 801(a)(1)(A)(iii), the majority leader of that House (or
4 his or her respective designee) shall introduce (by request,
5 if appropriate) a joint resolution described in paragraph
6 (1)—

7 “(A) in the case of the House of Representa-
8 tives, within 3 legislative days; and

9 “(B) in the case of the Senate, within 3 session
10 days.

11 “(3) A joint resolution described in paragraph (1)
12 shall not be subject to amendment at any stage of pro-
13 ceeding.

14 “(b) A joint resolution described in subsection (a)
15 shall be referred in each House of Congress to the commit-
16 tees having jurisdiction over the provision of law under
17 which the rule is issued.

18 “(c) In the Senate, if the committee or committees
19 to which a joint resolution described in subsection (a) has
20 been referred have not reported it at the end of 15 session
21 days after its introduction, such committee or committees
22 shall be automatically discharged from further consider-
23 ation of the resolution and it shall be placed on the cal-
24 endar. A vote on final passage of the resolution shall be
25 taken on or before the close of the 15th session day after

1 the resolution is reported by the committee or committees
2 to which it was referred, or after such committee or com-
3 mittees have been discharged from further consideration
4 of the resolution.

5 “(d)(1) In the Senate, when the committee or com-
6 mittees to which a joint resolution is referred have re-
7 ported, or when a committee or committees are discharged
8 (under subsection (c)) from further consideration of a
9 joint resolution described in subsection (a), it is at any
10 time thereafter in order (even though a previous motion
11 to the same effect has been disagreed to) for a motion
12 to proceed to the consideration of the joint resolution, and
13 all points of order against the joint resolution (and against
14 consideration of the joint resolution) are waived. The mo-
15 tion is not subject to amendment, or to a motion to post-
16 pone, or to a motion to proceed to the consideration of
17 other business. A motion to reconsider the vote by which
18 the motion is agreed to or disagreed to shall not be in
19 order. If a motion to proceed to the consideration of the
20 joint resolution is agreed to, the joint resolution shall re-
21 main the unfinished business of the Senate until disposed
22 of.

23 “(2) In the Senate, debate on the joint resolution,
24 and on all debatable motions and appeals in connection
25 therewith, shall be limited to not more than 2 hours, which

1 shall be divided equally between those favoring and those
2 opposing the joint resolution. A motion to further limit
3 debate is in order and not debatable. An amendment to,
4 or a motion to postpone, or a motion to proceed to the
5 consideration of other business, or a motion to recommit
6 the joint resolution is not in order.

7 “(3) In the Senate, immediately following the conclu-
8 sion of the debate on a joint resolution described in sub-
9 section (a), and a single quorum call at the conclusion of
10 the debate if requested in accordance with the rules of the
11 Senate, the vote on final passage of the joint resolution
12 shall occur.

13 “(4) Appeals from the decisions of the Chair relating
14 to the application of the rules of the Senate to the proce-
15 dure relating to a joint resolution described in subsection
16 (a) shall be decided without debate.

17 “(e) In the House of Representatives, if any com-
18 mittee to which a joint resolution described in subsection
19 (a) has been referred has not reported it to the House
20 at the end of 15 legislative days after its introduction,
21 such committee shall be discharged from further consider-
22 ation of the joint resolution, and it shall be placed on the
23 appropriate calendar. On the second and fourth Thursdays
24 of each month it shall be in order at any time for the
25 Speaker to recognize a Member who favors passage of a

1 joint resolution that has appeared on the calendar for at
2 least 5 legislative days to call up that joint resolution for
3 immediate consideration in the House without intervention
4 of any point of order. When so called up a joint resolution
5 shall be considered as read and shall be debatable for 1
6 hour equally divided and controlled by the proponent and
7 an opponent, and the previous question shall be considered
8 as ordered to its passage without intervening motion. It
9 shall not be in order to reconsider the vote on passage.
10 If a vote on final passage of the joint resolution has not
11 been taken by the third Thursday on which the Speaker
12 may recognize a Member under this subsection, such vote
13 shall be taken on that day.

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

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

19 “(B) the procedure in the receiving House shall
20 be the same as if no joint resolution had been re-
21 ceived from the other House until the vote on pas-
22 sage, when the joint resolution received from the
23 other House shall supplant the joint resolution of
24 the receiving House.

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

4 “(g) If either House has not taken a vote on final
5 passage of the joint resolution by the last day of the period
6 described in section 801(b)(2), then such vote shall be
7 taken on that day.

8 “(h) This section and section 803 are enacted by
9 Congress—

10 “(1) as an exercise of the rulemaking power of
11 the Senate and House of Representatives, respec-
12 tively, and as such are deemed to be part of the
13 rules of each House, respectively, but applicable only
14 with respect to the procedure to be followed in that
15 House in the case of a joint resolution described in
16 subsection (a) and superseding other rules only
17 where explicitly so; and

18 “(2) with full recognition of the constitutional
19 right of either House to change the rules (so far as
20 they relate to the procedure of that House) at any
21 time, in the same manner and to the same extent as
22 in the case of any other rule of that House.

1 **“§ 803. Congressional disapproval procedure for**
2 **nonmajor rules**

3 “(a) For purposes of this section, the term ‘joint res-
4 olution’ means only a joint resolution introduced in the
5 period beginning on the date on which the report referred
6 to in section 801(a)(1)(A) is received by Congress and
7 ending 60 days thereafter (excluding days either House
8 of Congress is adjourned for more than 3 days during a
9 session of Congress), the matter after the resolving clause
10 of which is as follows: ‘That Congress disapproves the
11 nonmajor rule submitted by the _____ relating to
12 _____, and such rule shall have no force or effect.’ (The
13 blank spaces being appropriately filled in).

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

17 “(c) In the Senate, if the committee to which is re-
18 ferred a joint resolution described in subsection (a) has
19 not reported such joint resolution (or an identical joint
20 resolution) at the end of 15 session days after the date
21 of introduction of the joint resolution, such committee may
22 be discharged from further consideration of such joint res-
23 olution upon a petition supported in writing by 30 Mem-
24 bers of the Senate, and such joint resolution shall be
25 placed on the calendar.

1 “(d)(1) In the Senate, when the committee to which
2 a joint resolution is referred has reported, or when a com-
3 mittee is discharged (under subsection (c)) from further
4 consideration of a joint resolution described in subsection
5 (a), it is at any time thereafter in order (even though a
6 previous motion to the same effect has been disagreed to)
7 for a motion to proceed to the consideration of the joint
8 resolution, and all points of order against the joint resolu-
9 tion (and against consideration of the joint resolution) are
10 waived. The motion is not subject to amendment, or to
11 a motion to postpone, or to a motion to proceed to the
12 consideration of other business. A motion to reconsider the
13 vote by which the motion is agreed to or disagreed to shall
14 not be in order. If a motion to proceed to the consideration
15 of the joint resolution is agreed to, the joint resolution
16 shall remain the unfinished business of the Senate until
17 disposed of.

18 “(2) In the Senate, debate on the joint resolution,
19 and on all debatable motions and appeals in connection
20 therewith, shall be limited to not more than 10 hours,
21 which shall be divided equally between those favoring and
22 those opposing the joint resolution. A motion to further
23 limit debate is in order and not debatable. An amendment
24 to, or a motion to postpone, or a motion to proceed to

1 the consideration of other business, or a motion to recom-
2 mit the joint resolution is not in order.

3 “(3) In the Senate, immediately following the conclu-
4 sion of the debate on a joint resolution described in sub-
5 section (a), and a single quorum call at the conclusion of
6 the debate if requested in accordance with the rules of the
7 Senate, the vote on final passage of the joint resolution
8 shall occur.

9 “(4) Appeals from the decisions of the Chair relating
10 to the application of the rules of the Senate to the proce-
11 dure relating to a joint resolution described in subsection
12 (a) shall be decided without debate.

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

16 “(1) after the expiration of the 60 session days
17 beginning with the applicable submission or publica-
18 tion date; or

19 “(2) if the report under section 801(a)(1)(A)
20 was submitted during the period referred to in sec-
21 tion 801(d)(1), after the expiration of the 60 session
22 days beginning on the 15th session day after the
23 succeeding session of Congress first convenes.

24 “(f) If, before the passage by one House of a joint
25 resolution of that House described in subsection (a), that

1 House receives from the other House a joint resolution
2 described in subsection (a), then the following procedures
3 shall apply:

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

6 “(2) With respect to a joint resolution described
7 in subsection (a) of the House receiving the joint
8 resolution—

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

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

14 **“§ 804. Definitions**

15 “For purposes of this chapter:

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

18 “(2) The term ‘major rule’ means any rule, in-
19 cluding an interim final rule, that the Administrator
20 of the Office of Information and Regulatory Affairs
21 of the Office of Management and Budget finds has
22 resulted in or is likely to result in—

23 “(A) an annual effect on the economy of
24 \$100 million or more;

1 “(B) a major increase in costs or prices for
2 consumers, individual industries, Federal,
3 State, or local government agencies, or geo-
4 graphic regions; or

5 “(C) significant adverse effects on competi-
6 tion, employment, investment, productivity, in-
7 novation, or the ability of United States-based
8 enterprises to compete with foreign-based enter-
9 prises in domestic and export markets.

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

12 “(4) The term ‘rule’ has the meaning given
13 such term in section 551, except that such term does
14 not include—

15 “(A) any rule of particular applicability,
16 including a rule that approves or prescribes for
17 the future rates, wages, prices, services, or al-
18 lowances therefore, corporate or financial struc-
19 tures, reorganizations, mergers, or acquisitions
20 thereof, or accounting practices or disclosures
21 bearing on any of the foregoing;

22 “(B) any rule relating to agency manage-
23 ment or personnel; or

24 “(C) any rule of agency organization, pro-
25 cedure, or practice that does not substantially

1 affect the rights or obligations of non-agency
2 parties.

3 “(5) The term ‘submission or publication date’,
4 except as otherwise provided in this chapter,
5 means—

6 “(A) in the case of a major rule, the date
7 on which the Congress receives the report sub-
8 mitted under section 801(a)(1); and

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

11 “(i) the date on which the Congress
12 receives the report submitted under section
13 801(a)(1); and

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

17 **“§ 805. Judicial review**

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

20 “(b) Notwithstanding subsection (a), a court may de-
21 termine whether a Federal agency has completed the nec-
22 essary requirements under this chapter for a rule to take
23 effect.

24 “(c) The enactment of a joint resolution of approval
25 under section 802 shall not be interpreted to serve as a

1 grant or modification of statutory authority by Congress
2 for the promulgation of a rule, shall not extinguish or af-
3 fect any claim, whether substantive or procedural, against
4 any alleged defect in a rule, and shall not form part of
5 the record before the court in any judicial proceeding con-
6 cerning a rule except for purposes of determining whether
7 or not the rule is in effect.

8 **“§ 806. Exemption for monetary policy**

9 “Nothing in this chapter shall apply to rules that con-
10 cern monetary policy proposed or implemented by the
11 Board of Governors of the Federal Reserve System or the
12 Federal Open Market Committee.

13 **“§ 807. Effective date of certain rules**

14 “Notwithstanding section 801—

15 “(1) any rule that establishes, modifies, opens,
16 closes, or conducts a regulatory program for a com-
17 mercial, recreational, or subsistence activity related
18 to hunting, fishing, or camping; or

19 “(2) any rule other than a major rule which an
20 agency for good cause finds (and incorporates the
21 finding and a brief statement of reasons therefore in
22 the rule issued) that notice and public procedure
23 thereon are impracticable, unnecessary, or contrary
24 to the public interest,

- 1 shall take effect at such time as the Federal agency pro-
- 2 mulgating the rule determines.”.

