

112TH CONGRESS  
1ST SESSION

# H. R. 3392

To amend title 5, United States Code, to provide for periodic review of major rules, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2011

Mr. QUAYLE (for himself, Mr. COBLE, Mr. ROSS of Florida, Mr. GOWDY, and Mr. GRIFFIN of Arkansas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 5, United States Code, to provide for periodic review of major rules, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Regulatory Review Act  
5 of 2011”.

6 **SEC. 2. IN GENERAL.**

7 (a) Chapter 5 of title 5, United States Code, is  
8 amended by inserting after section 553 the following:

1 **“§ 553a. Periodic review of major rules**

2       “(a) IDENTIFICATION OF MAJOR RULES.—On the  
3 date that is 6 months prior to the date that is 10 years  
4 after the date on which a rule takes effect, the Adminis-  
5 trator of the Office of Information and Regulatory Affairs  
6 in the Office of Management and Budget shall submit to  
7 the agency that made that rule and to the Congress a de-  
8 termination as to whether or not that rule is a major rule.

9       “(b) REVIEW BY AGENCY.—If an agency receives a  
10 determination under subsection (a) that a rule is a major  
11 rule, the agency head shall, not later than 10 years after  
12 the date on which the rule takes effect and every 10 years  
13 thereafter, complete a review of that rule consistent with  
14 the following:

15               “(1) The review shall identify the costs and  
16 benefits of the rule.

17               “(2) The review shall identify each amendment  
18 to the rule that would accomplish the same statutory  
19 objectives but result in different costs and benefits.

20               “(3) The review shall identify the costs and  
21 benefits of repealing the rule.

22       “(c) PUBLICATION OF REVIEW.—Not later than 30  
23 days after the date that is 10 years after the date on which  
24 the rule takes effect, the agency shall publish in the Fed-  
25 eral Register and submit to Congress a report summa-  
26 rizing the results of the review under subsection (b), in-

1 cluding information on each set of costs and benefits iden-  
2 tified pursuant to paragraphs (1) through (3) of sub-  
3 section (b).

4 “(d) COMMENT PHASE.—During the 90-day period  
5 beginning on the date that the report under subsection  
6 (c) is published, the agency shall give interested persons  
7 an opportunity to submit a comment on the review  
8 through submission of written data, views, or arguments  
9 with or without opportunity for oral presentation.

10 “(e) FINAL DETERMINATION ON THE RULE.—After  
11 consideration of the relevant matter presented, the agency  
12 shall make a final determination on whether the rule  
13 should be amended, continue in effect without amendment,  
14 or be repealed, and not later than 30 days after the period  
15 described in subsection (d) expires, publish that final de-  
16 termination in the Federal Register. That final determina-  
17 tion shall be made as to whether there is a way to accom-  
18 plish the objectives of the rule in a more effective, less  
19 burdensome, or less costly manner.

20 “(f) REVIEW BY THE ADMINISTRATOR.—Each final  
21 determination by an agency under subsection (e) shall be  
22 reviewed by the Administrator not later than 30 days after  
23 the agency publishes that determination. If the Adminis-  
24 trator determines that the agency determination with re-  
25 gard to that rule does not result in an outcome that ac-

1 accomplishes the objectives of the rule in a more effective,  
2 less burdensome, or less costly manner, then the Adminis-  
3 trator shall notify the agency promptly and the Director  
4 of the Office of Management and Budget shall make a  
5 determination as to whether the agency determination  
6 should be revised.

7 “(g) REPEALED RULES; AMENDED RULES.—

8 “(1) REPEALED RULES.—If the agency deter-  
9 mines that the rule should be repealed, the agency  
10 may establish a transition period of not more than  
11 6 months for the repeal of the rule. The rule shall  
12 cease to have effect beginning on the date that the  
13 transition period ends.

14 “(2) AMENDED RULES.—If the agency deter-  
15 mines that the rule should be amended, the agency  
16 shall, not later than 3 months after such determina-  
17 tion is made, commence appropriate action in ac-  
18 cordance with this chapter to make such amend-  
19 ment.

20 “(h) JUDICIAL REVIEW.—Notwithstanding any other  
21 provision of law, each determination by an agency under  
22 this section shall be subject to judicial review under chap-  
23 ter 7.

24 “(i) REPORT TO CONGRESS.—Not later than 30 days  
25 after the publication a final determination under sub-

1 section (e), the agency shall submit to Congress a report  
2 detailing that determination.

3 “(j) DEFINITIONS.—For purposes of this section:

4 “(1) The term ‘cost’ means, with respect to a  
5 rule, the cost of that rule, including direct, indirect,  
6 and cumulative costs and estimated impacts on jobs,  
7 economic growth, innovation, and economic competi-  
8 tiveness, to each person who is significantly affected  
9 by the rule.

10 “(2) The term ‘benefit’ means, with respect to  
11 a rule, the benefit of that rule, including direct, indi-  
12 rect, and cumulative benefits and estimated impacts  
13 on jobs, economic growth, innovation, and economic  
14 competitiveness, to each person who is significantly  
15 affected by the rule.

16 “(k) APPLICATION.—The provisions of this section  
17 shall apply only to rules that take effect during the period  
18 beginning on January 1, 2011.”.

19 (b) Section 551 of title 5, United States Code, is  
20 amended as follows:

21 (1) In paragraph (13), by striking “and” at the  
22 end.

23 (2) In paragraph (14), by striking the period at  
24 the end and inserting “; and”.

25 (3) By adding at the end the following:

1           “(15) ‘major rule’ has the meaning given such  
2           term in section 804.”.

3           (c) The table of sections for chapter 5 of title 5,  
4           United States Code, is amended by inserting after the  
5           entry relating to section 553 the following:

“553a. Periodic review of major rules.”.

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