



## H.J. Res. 41-Providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Securities and Exchange Commission relating to "Disclosure of Payments by Resource Extraction Issuers" (Rep. Huizenga, R-MI)

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### FLOOR SCHEDULE:

Expected to be considered on February 1, 2017, under a closed [rule](#).

### TOPLINE SUMMARY:

[H.J. Res. 41](#) would use the [Congressional Review Act](#) to provide for the disapproval of the Security and Exchange Commission's [Resource Extraction Rule](#).

### COST:

A Congressional Budget Office (CBO) estimate is not yet available.

### CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.J. Res. 41 would disapprove and provide for the nullification of the Resource Extraction Rule, mandated under Dodd-Frank, which became effective on September 26, 2016. This rule requires publicly traded resource extraction companies, including mining, oil, and gas companies, to disclose payments made to foreign governments as they relate to extraction projects.

The Resource Extraction Rule met a great deal of [controversy](#) since its inception, facing [legal](#) challenges by the American Petroleum Institute and the Chamber of Commerce for violations of the First Amendment, the Administrative Procedure Act, and the Exchange Act of 1934. They also argued that the SEC fundamentally [misinterpreted](#) the rule's statutory mandate. The U.S. District Court vacated the rule, asserting that the SEC did in fact misinterpret the statute's requirements. The SEC then returned to the drawing board, and after

several delays, [and](#) a lawsuit from Oxfam America, the SEC completed the rulemaking. Under the present rules, resource extraction issuers are required to comply with the rule for fiscal years including and following September 30, 2018.

The [Congressional Review Act](#) provides an expedited legislative process for Congress to disapprove of administrative rules through joint disapproval resolutions. Regulations issued by executive branch departments and agencies, as well as issued by independent agencies and commissions, are all subject to CRA disapproval resolutions. In [order](#) for a regulation to take effect, the issuing agency must produce a report to Congress. Generally, Congress then has 60 days to pass a resolution of disapproval under the CRA. However, this timeline is shifted in circumstances when rules are submitted to Congress within 60 legislative days of adjournment. In this case, the clock for the 60-day consideration timeline will restart 15 days into the 115<sup>th</sup> Congress, giving Congress the full window for consideration. While the parliamentarian will determine the exact cut off day after which rules may be subject to the CRA, Congress will be able to consider rules going back to roughly mid-May. Regulations that are successfully disapproved of will then either not go into effect or will be looked at as if they have not gone into effect. The CRA also prevents any new regulation that is substantially similar to a disapproved regulation from being promulgated in the future, absent action from Congress. Rules must be disapproved of on a rule-by-rule basis, and must be disapproved of in their entirety.

Under the CRA process, if a joint resolution is introduced in the Senate within the permitted time period and the resolution is not reported from committee on a timely basis, 30 Senators may petition to bring the resolution to the floor. This resolution would not be subject to the filibuster. When debate commences, the Senate must fully consider the resolution before moving on to any other business, with only 10 hours of debate. Finally, enactment of a joint resolution under the CRA would require a majority vote in each chamber and a presidential signature. Though the CRA has only been used once, in 2000 against Clinton-era ergonomic regulations, conditions today are largely the same as they were that year – with Republicans securing control of the House, Senate, and presidency.

#### **COMMITTEE ACTION:**

H.J. Res. 41 was introduced on January 30, 2017, and was referred to the House Committee on Financial Services.

#### **ADMINISTRATION POSITION:**

A Statement of Administration Policy is not yet available.

#### **CONSTITUTIONAL AUTHORITY:**

Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the Constitution of the United States--To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

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