

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The top bulb has a dark blue cap, and the bottom bulb has a light blue cap.

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"Self-Executing" Rules Reported by the House Committee on Rules

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Abstract. House Rule X assigns the Committee on Rules jurisdiction over the "order of business of the House." The panel's most noteworthy responsibility is to issue order of business resolutions, usually called "rules," "special rules," or, less commonly, "special orders." Chamber adoption of these rules accomplishes two main objectives: it permits the House to take up measures that typically lack a convenient right-of-way to the floor, and it defines the procedural conditions. One of the new types of rules is called a "self-executing" rule; it embodies a "two-for-one" procedure. This means that when the House adopts a rule it also simultaneously agrees to dispose of a separate matter, which is specified in the rule itself.

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House Rule X assigns the Committee on Rules jurisdiction over the “order of business of the House.” The panel’s most noteworthy responsibility is to issue order of business resolutions; these are usually called “rules,” “special rules,” or, less commonly, “special orders.” Chamber adoption of these rules accomplishes two main objectives: it permits the House to take up measures that typically lack a convenient right-of-way to the floor, and it defines the procedural playing field — for example, time for debate and the structure of the amendment process — for considering legislation.

The committee’s important scheduling role has meant that congressional scholars and others have classified rules in various ways. For example, an “open” rule affords any lawmaker an opportunity to offer amendments to a bill so long as they are in compliance with the House’s standing rules; a “closed” rule forbids anyone from offering amendments with an exception sometimes made for amendments recommended by the committee that reported the measure. Starting about twenty-five years ago, in response to developments such as increased partisanship and uncertainty with respect to how long or controversial the amendment process on the floor might be, the Rules Committee began to issue more procedurally imaginative and complex rules.

Definition of “Self-Executing” Rule. One of the newer types is called a “self-executing” rule; it embodies a “two-for-one” procedure. This means that when the House adopts a rule it also simultaneously agrees to dispose of a separate matter, which is specified in the rule itself. For instance, self-executing rules may stipulate that a discrete policy proposal is deemed to have passed the House and been incorporated in the bill to be taken up. The effect: neither in the House nor in the Committee of the Whole will lawmakers have an opportunity to amend or to vote separately on the “self-executed” provision. It was automatically agreed to when the House passed the rule. Rules of this sort contain customary, or “boilerplate,” language, such as: “The amendment printed in [section 2 of this resolution or in part 1 of the report of the Committee on Rules accompanying this resolution] shall be considered as adopted in the House and in the Committee of the Whole.”

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Traditional Use. Originally, this type of rule was used to expedite House action in disposing of Senate amendments to House-passed bills. As mentioned in the precedents (*House Practice* by Wm. Holmes Brown and Charles W. Johnson), self-executing rules for these purposes eliminate “the need for a motion to dispose of the [Senate] amendment.” Brown and Johnson further state that such resolutions are sometimes called “hereby” special orders “because the House, in adopting the resolution as drafted, ‘hereby’ agrees to the disposition of the [Senate] amendment as proposed by that resolution. If the House adopts a resolution, no further action by the House is required. The [Senate] amendment is never before the House for separate consideration.” “Hereby” or self-executing rules have also been used to adopt concurrent resolutions correcting the enrollment of measures or to make other technical changes to legislation.

Contemporary Use. Self-executing rules are still employed on matters involving House-Senate relations. They have also been used in recent years to enact significant substantive and sometimes controversial propositions. Examples from the *Congressional Record* will illustrate:

- On March 19, 1996, the House adopted a rule (H.Res. 384) that incorporated a voluntary employee verification program — addressing the employment of illegal immigrants — into a committee substitute made in order as original text.
- H.Res. 239, agreed to on September 24, 1997, automatically incorporated into the base bill a provision to block the use of statistical sampling for the 2000 census until federal courts had an opportunity to rule on its constitutionality.
- A closed rule (H.Res. 303) on an IRS reform bill provided for automatic adoption of four amendments to the committee substitute made in order as original text. The rule was adopted on November 5, 1997, with bipartisan support.
- On May 7, 1998, an intelligence authorization bill was made in order by H.Res. 420. This self-executing rule dropped a section from the intelligence measure that would have permitted the CIA to offer their employees an early-out retirement program.
- On February 20, 2005, the House adopted H.Res. 75, which provided that a manager’s amendment dealing with immigration issues shall be considered as adopted in the House and in the Committee of the Whole and the bill (H.R. 418), as amended, shall be considered as the original bill for purposes of amendment.
- On March 14, 2007, the House adopted H.Res. 239, which stated that committee amendments to a whistleblower protection bill (H.R. 985) recommended by the Oversight and Government Reform Committee shall be considered as adopted in the House and the Committee of the Whole.