

112TH CONGRESS
2^D SESSION

S. 2337

To require that Federal regulations use plain writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2012

Mrs. McCASKILL (for herself, Ms. COLLINS, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require that Federal regulations use plain writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

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 “Plain Writing Act for
5 Regulations of 2012”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to require that Federal
8 regulations use plain writing, to enhance public under-

1 standing of regulations, and to increase the level of public
2 participation in the rulemaking process.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) AGENCY.—The term “agency” means an
6 Executive agency, as that term is defined in section
7 105 of title 5, United States Code.

8 (2) DIRECTOR.—The term “Director” means
9 the Director of the Office of Management and Budg-
10 et.

11 (3) PLAIN WRITING.—The term “plain writing”
12 means writing that is clear, concise, well-organized,
13 and follows other best practices appropriate to the
14 subject or field and intended audience.

15 (4) REGULATION.—The term “regulation”
16 means a rule, as that term is defined in section
17 551(4) of title 5, United States Code, that is issued
18 by an agency.

19 **SEC. 4. RESPONSIBILITIES OF FEDERAL AGENCIES.**

20 (a) PREPARATION FOR IMPLEMENTATION OF PLAIN
21 WRITING REQUIREMENTS FOR REGULATIONS.—

22 (1) IN GENERAL.—Not later than 9 months
23 after the date of enactment of this Act, the head of
24 each agency shall—

1 (A) designate a senior official within the
2 agency to oversee the implementation of this
3 Act by the agency;

4 (B) ensure that the obligation of the agen-
5 cy to use plain writing in no way diminishes the
6 ability of the agency to perform scientific anal-
7 yses or technical analyses, or disclose scientific
8 data or technical data or any other findings,
9 that are required to be performed or disclosed
10 under chapter 5 of title 5, United States Code,
11 or any other provision of law;

12 (C) communicate the requirements of this
13 Act to the employees of the agency;

14 (D) train employees of the agency to write
15 regulations using plain writing;

16 (E) establish a process for overseeing the
17 ongoing compliance of the agency with the re-
18 quirements of this Act; and

19 (F) designate an employee of the agency to
20 serve as a point of contact to receive and re-
21 spond to public input on—

22 (i) the implementation of this Act by
23 the agency; and

24 (ii) the agency reports required under
25 section 6.

1 (2) INDIVIDUALS DESIGNATED.—The individual
2 designated under subparagraph (A) or (F) of para-
3 graph (1) may be the same individual designated to
4 carry out similar functions under the Plain Writing
5 Act of 2010 (5 U.S.C. 301 note).

6 (b) REQUIREMENT TO USE PLAIN WRITING IN NEW
7 AND REVISED REGULATIONS.—Not later than 12 months
8 after the date of enactment of this Act, each agency shall
9 use plain writing in accordance with the guidance issued
10 by the Director under the Plain Writing Act of 2010 (5
11 U.S.C. 301 note) in each proposed or final regulation
12 issued or substantially revised by the agency.

13 (c) CERTIFICATION OF COMPLIANCE.—For each pro-
14 posed or final regulation issued by an agency, the head
15 of the agency shall certify to the Director that the agency
16 head has read the proposed or final rule and that the rule-
17 making documents use plain writing.

18 (d) EXEMPTION FROM CERTAIN INFORMATION COL-
19 LECTION PROVISIONS.—An agency action to collect infor-
20 mation from the public about a regulation is exempt from
21 the information collection provisions of sections 3506(c)
22 and 3507 of title 44, United States Code, if the agency
23 head certifies that the sole reason for the information col-
24 lection is to improve the clarity of the regulation in accord-
25 ance with this Act.

1 **SEC. 5. RESPONSIBILITIES OF THE DIRECTOR OF THE OF-**
2 **FICE OF MANAGEMENT AND BUDGET.**

3 (a) GUIDANCE.—Not later than 6 months after the
4 date of enactment of this Act, the Director shall develop
5 and issue guidance on implementing the requirements of
6 this Act that ensures that the head of each agency under-
7 stands that the obligation of the agency to use plain writ-
8 ing does not in any way diminish the ability of the agency
9 to perform scientific analyses or technical analyses, or dis-
10 close scientific data or technical data or any other find-
11 ings, that are required to be performed or disclosed by
12 chapter 5 of title 5, United States Code, or any other pro-
13 vision of law. The Director may designate a lead agency,
14 and may use interagency working groups to assist in devel-
15 oping and issuing the guidance.

16 (b) PUBLICATION OF CERTIFICATIONS.—The Direc-
17 tor shall publish each certification required under section
18 4(c) on the official website of the Office of Management
19 and Budget.

20 **SEC. 6. REPORTS.**

21 (a) INITIAL REPORT.—Not later than 9 months after
22 the date of enactment of this Act, the head of each agency
23 shall publish on the plain writing section of the website
24 of the agency created under the Plain Writing Act of 2010
25 (5 U.S.C. 301 note) a report that describes the agency
26 plan for compliance with the requirements of this Act.

1 (b) ANNUAL COMPLIANCE REPORT.—Not later than
2 18 months after the date of enactment of this Act, and
3 annually thereafter, the head of each agency shall publish
4 on the plain writing section of the website of the agency
5 a report on the compliance of the agency with the require-
6 ments of this Act.

7 (c) GAO REPORT.—Not later than 18 months after
8 the date of enactment of this Act, and annually thereafter,
9 the Comptroller General of the United States shall submit
10 a report to the Committee on Homeland Security and Gov-
11 ernmental Affairs of the Senate and the Committee on
12 Oversight and Government Reform of the House of Rep-
13 resentatives that—

14 (1) evaluates the extent to which regulations
15 use plain writing, by conducting a survey of different
16 intended audiences for a representative sample of
17 major regulations that measures—

18 (A) the level of comprehension of each re-
19 spondent for each regulation; and

20 (B) the satisfaction of each respondent
21 with the plain writing used in each regulation,
22 focusing on whether the regulation uses writing
23 that is clear, concise, well-organized, and fol-
24 lows other best practices appropriate to the

1 subject or field and intended audience of the
2 regulation;

3 (2) assesses the extent to which plain writing
4 helped increase the level of public participation in
5 the rulemaking process; and

6 (3) provides recommendations to—

7 (A) improve compliance with the require-
8 ments of this Act; and

9 (B) better use plain writing to enhance
10 public understanding of regulations and in-
11 crease public participation in the rulemaking
12 process.

13 **SEC. 7. JUDICIAL REVIEW AND ENFORCEABILITY.**

14 (a) **JUDICIAL REVIEW.**—There shall be no judicial re-
15 view of compliance or noncompliance with any provision
16 of this Act.

17 (b) **ENFORCEABILITY.**—No provision of this Act may
18 be construed to create any right or benefit, substantive
19 or procedural, enforceable by any administrative or judi-
20 cial action.

○