

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3438

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2016

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## AN ACT

To amend title 5, United States Code, to postpone the effective date of high-impact rules pending judicial review.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Require Evaluation  
3 before Implementing Executive Wishlists Act of 2016” or  
4 as the “REVIEW Act of 2016”.

5 **SEC. 2. RELIEF PENDING REVIEW.**

6 Section 705 of title 5, United States Code, is amend-  
7 ed—

8 (1) by striking “When” and inserting the fol-  
9 lowing:

10 “(a) IN GENERAL.—When”; and

11 (2) by adding at the end the following:

12 “(b) HIGH-IMPACT RULES.—

13 “(1) DEFINITIONS.—In this subsection—

14 “(A) the term ‘Administrator’ means the  
15 Administrator of the Office of Information and  
16 Regulatory Affairs of the Office of Management  
17 and Budget; and

18 “(B) the term ‘high-impact rule’ means  
19 any rule that the Administrator determines may  
20 impose an annual cost on the economy of not  
21 less than \$1,000,000,000.

22 “(2) IDENTIFICATION.—A final rule may not be  
23 published or take effect until the agency making the  
24 rule submits the rule to the Administrator and the  
25 Administrator makes a determination as to whether

1 the rule is a high-impact rule, which shall be pub-  
2 lished by the agency with the final rule.

3 “(3) RELIEF.—

4 “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), an agency shall postpone the  
6 effective date of a high-impact rule of the agen-  
7 cy until the final disposition of all actions seek-  
8 ing judicial review of the rule.

9 “(B) FAILURE TO TIMELY SEEK JUDICIAL  
10 REVIEW.—Notwithstanding section 553(d), if  
11 no person seeks judicial review of a high-impact  
12 rule—

13 “(i) during any period explicitly pro-  
14 vided for judicial review under the statute  
15 authorizing the making of the rule; or

16 “(ii) if no such period is explicitly pro-  
17 vided for, during the 60-day period begin-  
18 ning on the date on which the high-impact  
19 rule is published in the Federal Register,  
20 the high-impact rule may take effect as early as  
21 the date on which the applicable period ends.

22 “(4) RULE OF CONSTRUCTION.—Nothing in  
23 this subsection may be construed to impose any limi-  
24 tation under law on any court against the issuance

1 of any order enjoining the implementation of any  
2 rule.”.

Passed the House of Representatives September 21,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*